Question of Palestine: Legal Aspects

A COMPILATION OF PAPERS
PRESENTED AT THE UNITED NATIONS SEMINARS
ON THE QUESTION OF PALESTINE
IN 1980–1986

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QUESTION OF PALESTINE: LEGAL ASPECTS

A compilation of papers presented
at the United Nations seminars on
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United Nations
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CONTENTS

Page

I. FIRST UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE (14-18 July 1980, Arusha, United Republic of Tanzania) 1

A. Palestinian rights and the United Nations
Mohammad Omar Basheer (Professor, Institute of African-Asian Studies, University of Khartoum, Sudan) 2

B. The land question in Palestine and eastern and southern Africa
John Henrik Clarke (Professor, Hunter College, City University of New York, United States of America) 7

C. Human rights and the inalienable rights of the Palestinians
Tilden J. LeMelle (Professor, Hunter College, New York, United States of America) 18

D. How the Palestinians became refugees: denial of basic human rights
Hawa Sinare (University of Dar es Salaam, United Republic of Tanzania) 24

E. The implementation of United Nations resolutions on Palestine
Henry Cattan (International jurist and writer) 32

F. Stages in the history of the legal issues in the Palestine problem: an overview
Abdeen Jabara (Lawyer, United States of America) 44

G. United Nations recognition of Palestinian rights determines their legitimacy
Bala Muhammad (Faculty of Social Studies, Bayero University, Kano, Nigeria) 47

H. Israeli settlement policy in the occupied Arab territories
Arabi Awad (Palestinian expert on the occupied territories) 54

I. Israeli settlement policies in the occupied Arab territories
Kasuka Sinwinji Mutukwa (Minister Counsellor and Deputy Permanent Representative of Zambia to the United Nations) 57

J. Zionist settlement ideology and its ramifications for the Palestinian people
Donald S. Will (Middle East Affairs, General Board of Global Ministries, United Methodist Office, United States of America) 62

II. SECOND UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE (25-29 August 1980, Vienna, Austria) 72

A. Human rights and the Israeli occupation of Palestine
Naseer H. Aruri (Professor of Political Science, Southeastern Massachusetts University, North Dartmouth, Massachusetts, United States of America) 73

B. The United Nations and the national rights of the people of Palestine
W. Thomas Mallison (Professor of Law and Director of the International and Comparative Law Program at George Washington University, Washington, D.C., United States of America) 81

Page

C. Legal and psychological value of the national arguments of the Palestinians and international opinion
Dominique Chevalier (Université de la Sorbonne, Paris, France) 88

D. The right to self-determination and the establishment of a Palestinian nation-State
Ingo Schoenfelder (Karl Marx University, Leipzig, German Democratic Republic) 90

E. The Universal Declaration of Human Rights and Israel's occupation of the West Bank and Gaza
Michael Adams (Editor, Middle East International, United Kingdom of Great Britain and Northern Ireland) 93

F. A juridical analysis of the Israeli settlements in the occupied territories
Sally V. Mallison (Research Associate, Comparative Law Program, George Washington University, Washington, D.C., United States of America) 100

G. Palestinians and human rights. A study of African opinions and attitudes to the Palestinian question
Sulayman S. Nyang (Associate Professor of Government and Public Administration, Howard University, Washington, D.C., United States of America) 107

H. Palestinian human rights in the context of the historical development of the Zionist movement
James Zogby (American-Arab Institute, United States of America) 121

III. THIRD UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE (10-14 August 1981, Colombo, Sri Lanka) 143

A. The fundamental rights of the Palestinian people
M. S. Agwani (Rector, Jawaharlal Nehru University, New Delhi, India) 144

B. The Palestinian right to self-determination
Fouad M. Moughrabi (Professor, University of Tennessee, Chattanooga, Tennessee, United States of America) 149

C. Certain aspects of the inalienable rights of the Palestinian people
Stanislaw Matosek (Ministry of Foreign Affairs, Poland) 154

D. The use of Palestinian waters and international law
Türkkaya Ataöv (Professor, Ankara University, Ankara, Turkey) 157

E. The national identity and the inalienable rights of the Palestinian people
Mohammed Akbar Kherad (Professor, Kabul University, Kabul, Afghanistan) 163

F. Fundamental rights of the Palestinians: the primal crime and the ambiguities of chosenness
Hassan S. Haddad (Professor, Xavier University, Chicago, Illinois, United States of America) 168

G. The Palestinian question and the rights of the Palestinian child
Salwa Abu Khadra (Palestinian) 173

H. Restoration of human rights of the Palestinian people: the role of the United Nations and the super-Powers
Sardar Muhammad (Professor, Department of Political Science, University of Punjab, Lahore, Pakistan) 185

Page

IV. FOURTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE (31 August-4 September 1981, Havana, Cuba) 196

A. Retrieving Palestinian national rights
Ibrahim Abu-Lughod (Professor, Department of Sociology, Northwestern University, Evanston, Illinois, United States of America) 197

B. Israeli settlements in occupied Arab lands: conquest to colony
Janet Abu-Lughod (Northwestern University, Evanston, Illinois, United States of America) 201

C. Political aborticide: Israel's Palestinian policy
Muhammad Hallaj (Professor, Institute of Arab Studies, Belmont, Massachusetts, United States of America) 224

D. Implications of the process of implementing the fundamental rights of the Palestinian people
Humberto Diaz-Casanueva (Human Rights Commission Ad Hoc Working Group on Southern Africa) 233

E. Human rights of Palestine
Julio Prado Vallejo (Director at the Post-Graduate School for International Sciences of the Universidad Central del Ecuador) 243

F. The fundamental rights of the Palestinian people
David Gilmour (United Kingdom of Great Britain and Northern Ireland) 248

G. An analysis of the legal structure of Israeli settlements in the occupied West Bank of Jordan
Raja Shehadeh (Lawyer and Representative of Law in the Service of Man, West Bank) 252

H. The inalienable rights of the Palestinian people
José A. García Lara (Director, Centre for African and Middle Eastern Studies, Havana, Cuba) 263

I. Some considerations on the establishment of a Palestinian State
Horacio Sevilla-Borja (Executive Secretary of the Latin American Association for Human Rights) 269

J. Human rights and Palestine: recent developments
John Quigley (Professor, College of Law, Ohio State University, Columbus, Ohio, United States of America) 272

K. The fundamental rights of the Palestinian people
Miguel A. D'Estefano Pisani (Professor of International Public Law at the University of Havana, Cuba and at the Higher Institute for International Relations) 277

V. FIFTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE (15-19 March 1982, New York, United States of America) 281

A. The Camp David accords and the fundamental rights of the Palestinian people
Jamal R. Nassar (Professor, Department of Political Science, Illinois State University, Normal, Illinois, United States of America) 282

B. Palestinian rights: resonance in the life and themes of Pope John Paul II
Joseph L. Ryan, S.J. (Pontifical Mission for Palestine, Amman, Jordan) 290

Page

C. The fundamental rights of the Palestinian people
Senator Heath Nelson Macquarrie (Member of Parliament, Vice Chairman, Joint Senate Foreign Relations and Defence Committee, Ottawa, Canada) 298

D. The Palestinians in Israel: an internally colonized minority
Elia Zureik (Professor of Sociology, Queen's University, (Kingston, Canada) 305

VI. SIXTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE (12-16 April 1982, Valletta, Malta) 309

A. The inalienable rights of the Palestinian people
Andrew Faulds (Member of Parliament, House of Commons, United Kingdom of Great Britain and Northern Ireland) 310

B. The rights of the Palestinian people and the territorial question
Luigi Granelli (Member of Parliament, Christian Democratic Party, Italy) 314

C. Basic rights of the Palestinian people
Vladimir Kisselyov (Professor of History at the Institute for Asia and Africa of the Academy of Sciences of the USSR) 318

D. Fundamental rights of the Palestinian people
Vladimir Koshelev (Assistant Professor, Byelorussian State University, Byelorussian SSR) 321

E. International aspects of the Palestinian rights
Jerzy Piotrowski (Member, Polish Institute for International Affairs) 326

F. Impossibility of exercising the national rights of the Palestinian people in the situation of Israeli military occupation and permanent aggression against Arabic countries and peoples
Bécir Meholjic 330

G. Israeli policy of settlements in the occupied Arab territories
Béla Szilagyi (Vice-President of the Hungarian Peace Council and member of the Hungarian Solidarity Committee) 334

VII. SEVENTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE (9-13 August 1982, Dakar, Senegal) 338

A. Palestine and Namibia: Two focal points for Arabs and African solidarity
Harold A. McDougall (Attorney, Professor, Antioch School of Law Washington, D.C., United States of America) 339

B. Violations of Palestinian rights: South African parallels
Alfred Moleah (Associate Professor of Political Science, Department of Pan-African Studies, Temple University, Philadelphia, Pennsylvania, United States of America) 345

C. The fundamental rights of the Palestinian people
Saturnin K. Soglo (First Counsellor, Permanent Mission of Benin to the United Nations) 355

D. The fundamental rights of the Palestinian people
Seydou Madani Sy (Rector, University of Dakar, Senegal) 360

Page

E. Palestinian women and development in the occupied West Bank
Rita Giacaman (Assistant Professor, Birzeit University, West Bank) 364

F. Zionist policies of extermination and expansion in the occupied territories
Maki N'Diaye (Minister for Foreign Affairs of Mali) 373

VIII. EIGHTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE (9-13 May 1983, Jakarta, Indonesia) 376

A. Israeli policies and practices in the occupied Palestinian and Arab territories in the light of recent events in the region
I. B. Fonseka (Chairman of the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories) 377

B. Jewish settlements in the occupied West Bank - how the land was acquired for their use and how they are structured
Raja Shehadeh (Lawyer and Representative of Law in the Service of Man, West Bank) 380

C. Israel's policies and practices in the Arab occupied territories in the light of prevailing international law
Mohammad Aziz Shukri (Chairman, Division of International Law, Damascus University, Syrian Arab Republic) 398

D. Al-Quds: A Holy City without a status
Abdelwahab Bouhdiba (Professor, University of Tunis, Tunisia) 405

E. Jerusalem: the plight of the Holy City
August Marpaung (General Manager, Antara News Agency, Jakarta, Indonesia) 409

F. The status of the Holy City of Jerusalem
Raouf Nazmi (Writer and author on Arab political issues, specializing on Palestinian issues since 1967) 418

G. Jerusalem (Al-Quds/Kudus-I Serif) under the Ottoman Empire
Mim Kemal Oke (Assistant Professor, Department of Public Administration, Bogazici University, Istanbul, Turkey) 423

H. Jerusalem from the standpoint of the historic right and principle of self-determination
Kacem Zhiri (Former Deputy Secretary-General of the Organization of the Islamic Conference, Jeddah, Saudi Arabia) 430

IX. NINTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE (14-17 August 1984, Tunis, Tunisia) 435

A. The status of the Holy City of Jerusalem
Bulent Akarcali (Member of Parliament, Turkey) 436

B. The status of the Holy City of Jerusalem
Abdelwahab Bouhdiba (Professor, University of Tunis, Tunisia) 438

C. The status of the Holy City of Jerusalem
Jerzy Piotrowski (Member, Polish Institute for International Affairs) 440

Page

X. TWELFTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE (8-9 July 1985, New York, United States of America) 444

The central role of law in the International Peace Conference on the Middle East
Sally V. Mallison (Research Associate, Comparative Law Program, George Washington University, Washington, D.C., United States of America) and W. T. Mallison (Professor of Law and Director of the International and Comparative Law Program at George Washington University, Washington, D.C., United States of America) 445

XI. THIRTEENTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE (7-11 April 1986, Istanbul, Turkey) 455

The International Peace Conference on the Middle East is a legal obligation and a political necessity
Tũrkkaya Ataõv (Chairman, International Relations Division, Faculty of Political Science, Ankara University, Turkey) 456

Note

The papers contained in the present compilation have been reproduced in the form in which they were submitted at the seminars, with minor editorial changes.

I. FIRST UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE

(14-18 July 1980,
Arusha, United Republic of Tanzania)

A. THE PALESTINIAN RIGHTS AND THE UNITED NATIONS

Mohammed Omar Basheer
(Professor, Institute of African-Asian Studies,
University of Khartoum, Sudan)

Introduction

The Palestinian question was first brought before the United Nations in 1947. Since then the United Nations has increasingly involved itself in the search for a solution. In this process the United Nations and the international community, in the face of continuing opposition from Israel supported by the United States of America, came to recognize it as the core of the Middle East problem.

In the wake of the October 1973 war, a new approach emerged and for the first time it was included in the United Nations agenda as an independent item in its own right. The Palestine Liberation Organization (PLO), as the sole representative of the Palestinian people that had not participated previously in the search for a solution, has granted for the first time, by virtue of General Assembly resolution 3237 (XXIX) of 22 November 1974, observer status. Since then, and as a result of the new level of involvement by the United Nations and the participation of the PLO, the issue has permeated all activities of the United Nations General Assembly, committees, commissions and agencies.

In 1979 the Security Council, which had previously dealt with the issue in the context of the Middle East situation, was able to overcome the United States veto and adopted resolutions 446 (1979) of 22 March 1979 and 452 (1979) of 20 July 1979 dealing with the Palestinian situation in the occupied territories.

Israel, supported by the United States and Western Powers, had all along opposed these processes. The United States did not fail to use its veto powers when necessary. This did not, however, prevent the the international community from concluding that the Palestinian question was the very core of the Middle East problem and the emergence of a comprehensive concept of Palestinian rights.

Palestinian nationalism and Israel

The conclusion by the international community and the emergence of the comprehensive concept regarding Palestinian rights cannot be discussed and understood without reference to the emergence and development of Palestinian nationalism and Israel's attitude to it.

The concept of Palestinian self-awareness, identity and nationalism has existed from the days of the Ottoman Empire. It has developed as part of and side by side with Arab nationalism. During the Mandate period and like other Arab nationalist movements, it developed and came to possess all the attributes of other forms of nationalism. Palestinian nationalism expressed itself in political activities, particularly the demand for an independent Palestinian State. Britain, the mandatory State, failed to meet its obligations to recognize the right of the Palestinians for an independent State as anticipated in the Covenant of the League of Nations. The Balfour Declaration of 1917 committing Britain to support the creation of a Jewish home in Palestine and the large Jewish immigration from outside Palestine from 1922 to 1947 did not dilute the Palestinians' demand for their own State as a matter of right and the fulfilment of Britain's obligation under the Covenant of the League of Nations.

Regardless of the justice or the injustice in the partition resolution of 1947, which created an Arab as well as a Jewish State, this was an affirmation and endorsement by the international community of the existence of Palestinian nationalism and its right of independence on a specific geographical area. Regardless too of the wisdom of rejection by the Palestinians of the partition resolution and their resistance to its implementation, the existence of a Palestinian identity and its right to exist as a nation on its own land was never questioned except by zionism. The failure to achieve its objectives until now did not in any way weaken that sense of nationalism, identity and right to independence.

The establishment of Israel, the expulsion of a large part of the Arab population, the incursion of an alien Jewish population and the occupation of territories belonging to the Arab people of Palestine did not kindle this nationalism. On the contrary, it has nourished and promoted its self awareness and identity. Israel all along has continued to deny and reject that there is anything called Palestinian nationalism.

This is part and parcel of Zionist ideology and policies. Theodor Herzl took no notice of the Palestinians (about 500,000 at the time) when he visited Palestine in 1898. David Ben-Gurion stated in 1917 that "in the historical and moral sense" Palestine was a country "without inhabitants".[1] Golda Meir said in 1969: "There was no such a thing as Palestinians."[1]

When the Camp David agreements were signed, Menachem Begin assured the Israelis that the phrase "legitimate rights of the Palestinian people", as contained in the Framework for Peace, "has no meaning".

The Israelis not only reject Palestinian nationalism, they also fear it because of its demand for an independent State. The Israeli hawks and doves are united on this. Meir Merhan, a senior correspondent for The Jerusalem Post, argued that this consensus is partly the result of a false perception of reality, partly the outcome of faulty logic and partly the product of an irrational mixture of mystical belief, aggressive romanticism and traumatic fears which cannot be upheld in today's world.

The policy did not, of course, lack its critics from among Israel's supporters. Nahum Goldman rejected the claim by Israeli leaders that Palestinian nationalism and statehood were illegitimate. As recently as May 1980, Don Roven, an Israeli who describes himself as a survivor of the Holocaust, and a dove, wrote the following:

> "Having studied the issue of self-determination in world politics, I recognize this as a right that the Palestinians must be accorded. The Palestinians should have the right, both in principle and in practice, to control their lives and not be ruled by Israelis or anyone else. If independent statehood rather than 'mere' autonomy is what they want, I for one support their quest for statehood."[2]

Notwithstanding all of this, the Israelis in the final analysis reject the inalienable rights of the Palestinians, as defined and expressed by the international community represented by the United Nations, the only international forum.

Inalienable rights of the Palestinians

The inalienable rights of the Palestinians, as defined in different resolutions of the United Nations at different times, include the following:

(a) The right to self-determination without external interference;

(b) The right to national independence and sovereignty;

(c) The right to territorial integrity and national unity;

(d) The right to regain their rights by all means;

(e) The right to be represented as a principal party in the establishment of a just and durable peace;

(f) The right to their homes and property from which they have been displaced and uprooted;

(g) The right in the occupied territories to permanent sovereignty and control of their natural resources;

(h) The right to full compensation for the damages done to their natural and human resources;

(i) The right to education and culture and the means for enjoying these and to preserve their national identity.

Right of self-determination

The right of self-determination and equality is entrenched in the Charter of the United Nations (articles 1 and 55) and the Universal Declaration of Human Rights. It is a natural right. In the context of United Nations resolutions, this right was spelt out for the first time in clear and unambiguous terms in General Assembly resolution 3236 (XXIX) of 22 November 1974. It was the first time that the United Nations had reasserted that this fundamental right was not negated by the United Nations decision in 1947 to partition Palestine and to create an Arab and a Jewish State. The United Nations, in subsequent resolutions during the period 1975-1980, repeatedly reaffirmed these rights (see resolutions 3376 (XXX) of 10 November 1975, 31/20 of 24 November 1976, 32/40 A and B of 2 December 1977, 33/28 A-C of 7 December 1978, 34/65 A and B of 29 November 1979 and 34/65 C and D of 12 December 1979).

Analysis of the voting will show how the international community had come to a consensus, if not unanimity, on this issue while Israel and the United States continued to oppose and frustrate it. The European Community countries, which had in the past either opposed or abstained, have recently departed from their previous path. In their Venice declaration on the Middle East, made on 13 June 1980, the European Council moved towards this consensus. It is not surprising that Mr. Begin, true to himself, reacted in the violent way he did.

As for the Security Council, it discussed the issue of political rights of the Palestinian people first in January 1976 and since then, in the context of the renewal of the United Nations Disengagement Observer Force (UNDOF), the situation in the Middle East or Lebanon. It was only in 1979 that the Security Council was able to overcome the traditional United States veto by adopting two resolutions regarding the Palestinian situation in the occupied territory (resolutions 446 (1979) of 22 March 1979 and 452 (1979) of 20 July 1979).

The most recent resolution (465 (1980) of 1 March 1980) unanimously adopted by the Security Council, and later repudiated by the Carter Administration, deplored, among other things the actions and policies of Israel in the occupied territories. A senior member of the Palestine National Council, commenting on the United States action, wrote as follows:

> "The claim that the United States representative's vote on 1 March 1980 was 'unprecedented' in any way, or represented in any sense a 'change in policy is ... a vicious nonsense'. What is truly unprecedented is the repudiation by a chief of state of his country's vote in the Security Council two days after it has been passed. What does represent a basic change in policy indeed, a conspicuous retreat from established, principled positions, is the reinstatement of American policy on Israeli settlements and on the future of Jerusalem, contained in President Carter's statement of 3 March 1980 and in his press conference of 14 March 1980.
>
> "The new American policy has travelled away from the universal principles to which it once adhered."[3]

Although the Security Council has failed so far to take action on the right of the Palestinians to self-determination, sovereignty and other political rights, United Nations commissions and agencies have recognized these rights. The Commission on Human Rights has recognized the importance of self-determination as a basic human right and as the prerequisite for the exercise of all other human rights. In its resolution of 1978 entitled "The right of peoples under colonial or alien domination or foreign occupation" (resolution 2 (XXXIV) of 14 February 1978), the Commission affirmed "The inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine". In another resolution in the same year (resolution 3 (XXXIV) of 14 February 1978), the Commission reaffirmed the inalienable rights of the Palestinians to "self-determination, national independence, territorial integrity, national unity and sovereignty without external interference".

All agencies and committees of the United Nations today recognize the PLO as the only representative of the Palestinian people and accord it observer status in its meetings.

Economic, social and cultural rights

The General Assembly, the Economic and Social Council, the World Health Organization (WHO), the Food and Agriculture Organization of the United Nations (FAO) and the International Labour Organisation (ILO) have in recent years increasingly concerned themselves with the economic and social conditions of the Palestinians both inside and outside the occupied territories. The issues that these different agencies have underlined as adverse and damaging to the economic and social well-being of the Palestinian people and contrary to its inalienable rights include: the misuse of natural resources, the misuse of the Arab labour force, the damaging settlement policy, the increasing emigration of Palestinians to Arab countries, the controlling of water resources, the destruction of Arab homes and interference into family rights and customs. On all these issues, the different commissions and agencies pointed to the illegal exploitation by the Israeli Government of the natural wealth, resources and population, which was adversely affecting the economic and social welfare of the people. These were not merely charges but substantiated findings.

Aspects of educational and cultural rights have been the concern of the United Nations Educational, Scientific and Cultural Organization (UNESCO) since 1950. From 1974 and until now, UNESCO has increasingly dealt with the right of the Palestinians to education and culture to preserve their national identity. UNESCO associates Israel's occupation with colonialism, racism and apartheid in southern Africa. It considers that the PLO is a liberation movement, and allocated funds to it to maintain the unique cultural identity of the Palestinians (see UNESCO General Conference resolution No. 20 C (1.40 of 24 November 1978).

Human rights issues

In discussing human rights issues, reference should be made to the Charter of the United Nations (1945), the Universal Declaration of Human Rights (1948) and the Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949). The arbitrary arrests, deportation and torture carried out by Israel are grave breaches of articles 5, 9 and 10 of the Universal Declaration of Human Rights. The denial of the rights of the Palestinian refugees and displaced persons to return to their homes and denying students studying abroad the right to re-enter is a breach of article 13 of the same declaration. Land expropriation, the establishment of settlements, the demolition of houses, the barring of Palestinians from entry to the Holy Places, the censuring of magazines, journals and books, the discrimination in wages, the wholesale punishment of families and the practice of torture, are other examples of breaches of articles 13, 17, 18, 19, 20 (1), 23 (1) and (3),[4] inter alia, of the Universal Declaration of Human Rights.

Conclusion

Over a period of more than 30 years, the United Nations has been able to define the inalienable rights of the Palestinians not only in general terms but in detail. It has been able to provide assistance in some instances. In both cases, this was achieved in the face of Israel's opposition, blackmail and deliberate actions of violence. The United States continuously came to its rescue and prevented necessary action by the use of the veto in the United Nations, by providing Israel with economic and military power, by denying the existence of Palestinian nationalism and by not recognizing the PLO as the sole representative of the Palestinian people.

The near consensus reached by the international community is reflected in the voting at the United Nations and other agencies. The Movement of Non-Aligned Countries, the Organization of African Unity (OAU), the Organization of the Islamic Conference, and the World Peace Council have all made their positions on these issues known in very clear terms. The charges and accusations levelled against the United Nations and third world alliances by Moynihan, Begin, Carter, the Israeli lobby in the United States and the haws have not in any way belittled the United Nations efforts and the positive actions it has taken and which have finally led to the emergence of a framework for a comprehensive proposal for a peace settlement of the Middle East problem based on the recognition of the inalienable rights of the Palestinians supported by the overwhelming majority of countries of the world.

It is precisely because of the departure of the Camp David agreements from this comprehensive approach that they are rejected by the Palestinian people and its sole representative, the PLO. They are, however, not alone in this. The Venice declaration on the Middle East of the European Council recognized the failure of the Camp David agreements in addressing themselves to the Palestinians. Why is there a consensus in rejecting the Camp David agreements?

(a) According to Fayez A. Sayegh, "the Camp David agreements envisage a final solution of the Palestinian problem which precludes the exercise of the inalienable national rights of the Palestinian people to self-determination and statehood in Palestine and the elementary right of the Palestinian people to choose and designate its national representative";[5]

(b) They divide the Palestinian people into separate categories and offer different formulas for dealing with their respective situations. In this way their unity is brought to an end. The dismemberment of the Palestinian people - which is in itself a symptom of its tragedy - was transformed at Camp David into a permanent feature;[5]

(c) They represent an imposed settlement. They were made in the absence of the Palestinian representatives and "thereby violate both their inalienable rights and aspirations. Palestinian participation is by proxy and the role of participating Palestinians is limited. The Camp David framework will go down in the history of Palestine alongside the Balfour Declaration, the League of Nations Mandate, the partition resolution of the United Nations General Assembly and Security Council resolution 242 (1967) - all of which dealt with Palestinians as objects and ignored both their inalienable rights and their known aspirations";[6]

(d) The Camp David framework exclude in practice, not in words, the most important elements of the term "legitimate rights", i.e., sovereignty, statehood, self-determination, and return;

(e) It has been reached outside and in contradiction to United Nations resolutions and approach to reach a comprehensive settlement.

In answer to the question "What does the Camp David framework for peace promise to the Palestinians?" Fayez A. Sayegh, in his excellent study, answers as follows:

> "A fraction of the Palestinian people (under one third of the whole) is promised a fraction of its rights (not including the natural right to self-determination and statehood) in a fraction of its homeland (less than one fifth of the area of the whole); and this promise is to be fulfilled several years from now through a step-by-step process in which Israel is able at every point to exercise a decisive veto power over any agreement. Beyond that, the vast majority of Palestinians is condemned to permanent loss of its Palestinian national identity, to permanent exile and statelessness, to permanent separation from one another and from Palestine - to life without national hope or meaning."[7]

The assumptions that the Arab-Israeli conflict is a historical conflict between Jews and Arabs or that it is a psychological one is false. It is a contemporary political struggle, material and physical. The Palestinian struggle is not for autonomy, which is an administrative formula and a negation of self-determination. The Palestinian political struggle, like that of other national liberation movements, seeks to achieve independence, statehood and sovereignty for the Palestinian people. This is its inalienable right and it is entitled to it like other people in the world. It is not asking for something abnormal or exceptional, only for the fulfilment of its inalienable rights, political, economic, social and cultural - as defined by United Nations resolutions and supported by the international community of nations.

Notes

1/ Quoted by S. Tillman, Israel and Palestinian Nationalism, *Journal of Palestine Studies*, vol. IX, No. 1, Autumn 1979, issue 33, p. 62.

2/ *The New York Times*, 23 May 1980.

3/ Fayez A. Sayegh, "Another American Flip-Quolf", *Arab Perspectives*, vol. I, No. 1 (April 1980).

4/ For samples of violations of rights, see Karim Khalaf and Mohamed Milhelum, "Palestinians and Human Rights" (World Peace Council, 1979).

5/ Fayez A. Sayegh, *Camp David Agreement and Palestine* (League of Arab States, 1980), p. 2.

6/ *Ibid*., p. 3.

7/ *Ibid*., p. 10.

B. THE LAND QUESTION IN PALESTINE AND EASTERN AND SOUTHERN AFRICA

A comparative and historical study of two colonial tragedies

John Henrik Clarke
(Professor, Hunter College,
City University of New York, United States of America)

The land question, in general, is as old as people and nations. It is part of a world problem and must be seen in this context in order to understand the specific land question that is the subject of the present paper. The quest for land and the attempt to recover it when it is lost, is a recurring theme in the drama of human endurance and survival. Stability on a piece of land that a people can call its own is the basis for its nationhood, its culture and religion: in essence, its humanity.

In my assessment of the fundamental rights of the Palestinian people, I will be, figuratively, looking through several historical windows. My main focus will be the land question. I will emphasize the importance of the land question in Palestine by comparing it with the land question in Eastern and Southern Africa. My intent is to show that the method and rationale that were used by the Europeans to take the land from the Africans in the so-called White Highlands of Kenya, in Zimbabwe, then called Rhodesia, and in South Africa, where the Dutch or Boers encountered the Khoisan people whom they called Bushmen and Hottentots, were basically the same.[1]

Further, I intend to show that the pattern of land encroachment by the Europeans was part of a war against the cultures and customs of non-European people and it differed, only by degree, at different times and in different places. In her Ph.D. thesis, "The dominant modes of Western thought and behavior: an ethnological critique", Professor Donna Richards referred to this behaviour of Europeans as "the concept of the cultural other". She says:

> "It is in the nature of the Western ethos that one of the most accurate indices of Western man's self-image is his image of other ... The essential characteristics associated with this concept, within the Western world view, are control and consequently power - the theme which reverberates endlessly in the ethnological unfolding of Western culture, echoed in every Western statement of value."[2]

In another work, entitled "The ideology of European dominance", Professor Richards continues her examination of the European world view. She says:

> "It is possible to isolate certain seminal ideas which have served as organizing principles in Western scientific thought ... These themes are intimately related to the Western European attitude toward other peoples and imply a particular relationship to them, which will subsequently be referred to as 'ethos'. ... The Western European ethos appears to thrive on the perception that those who are culturally and radically different are inferior. It relates to other cultures as superior or inferior, as powerful or weak, as 'civilized' or 'primitive'. The European world view reflects these relationships. It was the Western European ethos that created 'the savage'."[3]

If we understand what Professor Richards has said, we will also understand, at least in part, that temperament and attitude of the Ashkenazi Jews who control that part of Jerusalem that is called Israel. They are more European than Jewish. They are, in fact, a European nation. Their problem, however tragic it is, was started in Europe by Europeans and should have been resolved in Europe by Europeans. In the books "Democracy in Israel", the writer Norman F. Dacey calls our attention to the main aspect of this dilemma when he says:

> "Jews in Israel don't persecute just Arabs - they persecute each other. The discrimination which is the hallmark of the life in the Zionist State is responsible for a widening gap between Western Ashkenazi Jews and the oriental or Sephardi Jews."[4]

Discrimination against the oriental Jews continues in housing, in jobs and in education. Their plight in Israel is the plight of a subject people. These oriental Jews once lived all over Western Asia, called the Middle East. Zionist propaganda enticed them to come to Israel, when the State was created. The European Jews never accepted them as their equals, although they belong to the same religion. Oriental Jews had established communities in Baghdad in Iraq and in other Middle Eastern countries 12 centuries before Islam arrived. These Jews have not related to zionism because zionism was not created by them or for them.[5]

Zionism has a direct relationship to European colonialism. It developed out of the same political incubator at about the same time. In its racist attitudes and treatment of Arabs, oriental Jews and the small number of American blacks who have settled in Israel, zionism relates more to the Calvinist Christianity of the Boers in South Africa. The Arab communities in Israel and on the West Bank are surrounded by Jewish settlements that are armed camps, established to contain the Arabs and control the land. These Arab communities are similar to the black communities in South Africa that the Boers call bantustans. In both cases the intent is the same: to deny the Arabs and the Africans any kind of sovereign rights in their own land. Whether the system is practiced in Israel or in South Africa, it is what the Boers call "apartheid".[6]

The word apartheid was coined by the Boer intellectuals for the general election of 1948 that brought the Boers to political power. The condition of apartheid existed long before the word, and the British are more responsible for creating the condition than the Boers. The word, with the promise to keep the Africans "in their place", caught on immediately among the white racialists who saw apartheid as a means to advance themselves at the expense of the Africans. The condition of apartheid also meant that the Africans, like the Arabs in Palestine, could be made to feel alien in their own land.

The Palestinian writer and scholar, Fayez A. Sayegh, emphasized this point in his pamphlet, "Twenty Basic Facts about the Palestine Problem" when he said:[7]

> "... Israel has additionally imposed a system of apartheid upon the Arabs who stayed in their homeland ... More than 90 per cent of these Arabs live in 'security zones'; they alone live under martial law, restricting their freedom to travel from village to village or from town to town; their children are denied equal opportunities for education; and they are denied decent opportunities for work, and the right to receive 'equal pay for equal work'."

Dr. Sayegh remind us that, in spite of this fact, Israel is generally portrayed in the Western press as the "bastion of democracy" and the champion of peace in the Middle East. The propaganda in Israel's favour could not turn the facts around. This nation was established, at the expense of the Arabs, at the intersection of three continents. Geographically, Israel is located at the back door of Europe, the side door of Asia and the front door of Africa. Since its inception as a State the rules of Israel have behaved as though they were the colonial masters in this part of the world. The Arabs in Israel are treated like colonial subjects.

Dr. Sayegh explains this dilemma more precisely in his pamphlet, "Palestine, Israel and Peace", when he said:[8]

> "The crux of the Palestine problem is the fate of a people and its homeland. It is the piecemeal conquest and continued seizure of the entire country by military force. It is the forcible dispossession and displacement of the bulk of the indigenous population, and the subjugation of the rest. It is also the massive importation of alien colonists - to replace the evicted, and to lord it over the conquered. And it is the colonization, by the foreign settlers, of both the expropriated private land and the seized national resources of the overpowered people. It is, indeed, the destruction of the native Palestinian society of Christian and Muslim Arabs, and its replacement by a society of transplanted Jews and a foreign body politic - which views itself as the vanguard of the 'Jewish nation', currently spread throughout the world but declared destined sometime to assemble in the seized land.
>
> "The refusal of the Arab world to acquiesce in this fate of Palestine and its people explains both the bitterness and the persistence of the Arab-Israeli conflict. It also underscores the essential difference in character between this conflict and ordinary international disputes. And it explains why the Arab-Israeli conflict cannot be resolved until the Palestinian problem is settled through restoration of the rights of the Palestinian people."

There is no intent on the part of the Israelis, not even the liberals or the Communists, totally to restore the rights of the Palestinian people. The liberals and Communists want an improvement in the living condition of the Palestinians. They do not want the Palestinians to come to power, nor are they willing to share power with them. What is called Israel and the West Bank is European-controlled territory. This means Ashkenazi control. The slight improvement in the living and political conditions of the oriental Jews in Israel in recent years does not mean that they will ever come to power. In an article contributed to the book Zionism and Racism, the writer Naseer H. Aruri explains the plight of the oriental Jews of Israel in this manner:[9]

> "That Israel's oriental Jews have been subjected to social, economic and racial discrimination is no longer considered controversial. Although constituting about 60 per cent of the population, they are less than first-class citizens. Their representation in the State's social, economic and political institutions is strikingly incompatible with their numerical majority, while the European-American (Ashkenazi) communities are represented far out of proportion to their numbers. Disabilities imposed on the oriental sector are rampant in employment, education, housing, income, social welfare and political participation.

Disparities between the two Jewish communities have grown worse in all these areas since the establishment of the Zionist State in Palestine; and there are no indications that the social gaps are narrowing. On the contrary, the available statistical data reveal a widening of the gaps.

> "The largest share of the national income in Israel goes to the highest strata of capitalists and managers, workers and government bureaucrats are strategically situated to push for higher incomes. Jews of the oriental communities have no professional skills to speak of and, consequently, are unable to compete in their category. Their presence is most prominently observed in the lowest strata of the socio-economic pyramid, that of the manual workers in industry and agriculture, 'the only group whose share of the national income has increasingly diminished'. Poverty in Israel is closely linked with ethnic origin."

There is no need at this point to argue whether zionism is a form of racism. In the face of so much persuasive evidence, proving that it is is redundant and a waste of time. The Arabs in Israel, and to a lesser extent, that is slight, the oriental Jews, live in a condition that does not differ appreciably from the system of apartheid in South Africa. The Ashkenazi Jews of Israel have almost complete control over their lives - their land, their jobs, their housing, and their education.

The Chairman of the Israeli League for Human and Civil Rights, Israel Shahak, states that, "Israel is about as apartheid as South Africa". He referred first to the difficulty Arabs and oriental Jews have in obtaining decent housing.[10/]

His comments are:

> "This isn't the only thing. If you go any place where there are so-called twin cities, like Nazareth and New Nazareth, you will see that the old Nazareth is an open city. Anyone can come, and by buying or selling or by agreement can dwell there. But in New Nazareth, the so-called Upper Nazareth, to obtain a flat, you have to bring proof that you are a Jew.
>
> "A society in which such a thing is required for more than 90 per cent of its inhabited areas has no other name than an apartheid society. Exactly the same proof is required in Johannesburg. The only difference is that people know about Johannesburg, but not about Nazareth.
>
> "This goes for many other areas too. For example, you have now an official plan in Israel for what is called the 'Judaization' of Galilee. This means that the Government thinks there are too many Arabs in Galilee, so it has decided officially and openly to confiscate some of their land, convert it into pure Jewish land, and settle only Jews there."

What we need to consider here is that the treatment of the Arabs and the oriental Jews in Israel has no justification in Judaism or Christianity. This treatment violates the moral codes of both of these religions.

Again referring to the treatment of the Arabs and oriental Jews in Israel, Mr. Shahak says:

> "We are on a much lower level than blacks in the United States because there is no recourse. No one can even do the same sort of job that the NAACP [National Association for the Advancement of Colored People] does in the United States. There is no possibility of bringing any case about discrimination, even the most blatant, to any court, because in Israel there is no law forbidding discrimination against non-Jews. On the contrary, all discrimination against non-Jews is completely legal."

What we have here is the lack of recognition of the Arab people as human beings. This attitude towards the Arabs is as racist as any attitude the Nazis ever held toward the Jews. In a booklet on the subject, "Looking beyond coexistence - prospects of a binational Palestine", Alan R. Taylor recalls the official nature of this attitude.[11/]

In 1967, just after the June War, a delegation from the United Kingdom representing the House of Commons, visited Jerusalem and was told by the Chairman of the Knesset Foreign Affairs Committee that the Palestinians "are not human beings, they are not people, they are Arabs". The same sentiment was expressed by Golda Meir two years later in a Sunday Times interview:

> "There was no such thing as Palestinians ... It was not as though there was a Palestinian people in Palestine considering itself as a Palestinian people and we came and threw them out and took their country away. They did not exist."

This inclination to dehumanize an entire people, to deny its very existence, comes out of Western racism. Israel's main difficulty in the Middle East stems from the failure to recognize the Arabs as a people with the right to live in peace, in all or part of Palestine. Before the introduction of zionism this was no problem. Jews and Arabs had met many times on the crossroads of history and most of the time they complemented each other. Zionism introduced a conflict between the Arabs and the Jews that did not previously exist. The pogroms and persecutions that the Jews suffered in Europe had no counterpart in the Arab world. The early settlement of European Jews in Palestine, in the late nineteenth and in the early part of the twentieth century, had the goodwill and cooperation of the Arabs. The early settlers presented themselves as a simple humane people escaping from the religious and political persecution of Europe. Behind this idealistic guise the real and previously unannounced intentions of zionism were introduced. The leaders of the movement did not want a part of Palestine. They wanted all of it. Humane Zionists who respected rights of the Arabs and advocated a binational State were ignored or expelled from the Zionist movement.[12/]

It became known that the leaders of the Zionist movement intended from the outset to colonize and take over Palestine and to establish there a Jewish State "as Jewish as England is English". To this end the Zionists propagated the myth that Palestine was an empty land crying out for settlers. The existence of a large population of Arabs was ignored or brushed aside.[13/]

The European Jews who carved a country called Israel out of Palestine, created a country with double standards, one for the Israeli Jews and another for the Palestinian Arabs. The conflict between the Arabs and the Jews was built into the fabric of the Government. The main intention of the Zionists was to destroy every element of stable life among the Arabs and control the land.

The conveners of the twenty-third World Zionist Congress, held at Jerusalem in 1951, were very clear about what they expected of zionism. This was the first such congress after the establishment of the State of Israel. The programme that was adopted began by saying: "The task of zionism is the consolidation of the State of Israel".

The sponsors of this Congress were boldly talking about a political and not a religious action. While zionism might mean different things to different people, to the sponsors of this Congress it meant control - control over the lives of the Arab people, especially control over its land. The following information extracted from the pamphlet, "Zionism and racism - a case to answer", explains in some detail what I mean:

> "In summary, the nature and extent of racial discrimination which is built into the administrative and social framework of the Zionist State of Israel are these:
>
> "1. An Arab living under Israeli rule in Israel may be arbitrarily excluded from land which he and his forebears have owned for generations. He may have his land confiscated and handed over to Jewish settlers. He may then be prohibited from even working on that land. His whole village may be razed to the ground. (Three hundred eighty-five Arab villagers in Israel have been wiped out in this way.) He and his whole community may suffer gross discrimination in housing, municipal services, education and social welfare. He may be refused nationality and citizenship even though he was born in the territory of Israel and has lived there all his life and even though any Jewish newcomer from anywhere in the world automatically receives Israeli nationality. (Thousands of Palestinian Arabs are in this stateless condition in Israel.)
>
> "2. An Arab living under Israeli rule in the occupied territories may be arrested arbitrarily and detained without trial. He may be deported from his native land without judicial process or appeal. His home may be blown up or bulldozed on a simple order from the local military commander. His land may be confiscated for ostensibly military purposes, but in fact for the purpose of Israeli Jewish colonization. His freedom of movement may be restricted. He cannot express political opinions or engage in political activities without risk of arrest and detention or deportation.
>
> "3. An Arab refugee living in exile whose home is in Israel or the occupied territories and who was uprooted from it in the wars of 1948 and 1967 is prevented from returning home because he is an Arab and not a Jew - and this in spite of repeated United Nations resolutions calling on Israel to allow him to return. Meanwhile any Jew is free to enter and settle in Israel, even though he has never seen the country before in his life."[14/]

The land question was at the base of the Arab-Israeli conflict from the beginning and it still is. The Camp David agreement, which I will come back to later, only accentuated the conflict and further alienated the Arabs.

This conflict has long historical roots and it was fully developed before the representatives of the Zionist movement signed Israel's Declaration of Independence on 14 May 1948. They declared that the new State would be "open to Jewish immigration and the ingathering of Jewish exiles". In the meantime nearly a million Arabs were forced into exile. The leaders of the Zionist movement, now the new rulers of Israel, had stood before the world an promised to "maintain complete equality of social and political rights for all its citizens, without distinction of creed, race or sex". Further, they had called on "the sons of the Arab people dwelling in Israel to keep the peace and play their part in building the State on the basis of full and equal citizenship". This was a hollow promise that was never meant and never kept. In his report of September 1948, United Nations Mediator for Palestine, Count Folke Bernadotte, issued this warning:

> "It would be an offence against the principles of elemental justice if these victims of the conflict were denied the right to return to their homes while Jewish immigrants flow into Palestine, and indeed offer at least the threat of permanent replacement of the Arab refugees who have been rooted in the land for centuries."[15]

The report laid bare the crucial essence of the Palestinian conflict. It did not move the Zionists from their position or help the Arabs at all. Israel's new Prime Minister, David Ben-Gurion, said, "We must do everything to ensure that they [the Arabs] never return." No influential Israelis raised their voice in defiance of Count Bernadotte's call for "elemental justice" for the Arabs now being driven from their homes. The day after completing his report, Count Bernadotte was murdered by Jewish terrorists. The Arab refugee problem became an international problem, and as the Jewish-American journalists would later remark, "the moral millstone about the neck of world Jewry".

The Defence Laws that the new State of Israel had inherited from the British Mandatary Government that had ruled Palestine between 1922 and 1948 were rewritten and made more stringent against the Arabs. Now, at last, some influential Israelis found their voices and spoke out against these laws. At a conference of the Jewish Lawyers' Association, held at Tel Aviv in February 1946, a future Justice of the Supreme Court in Israel made the following statement about these laws:

> "These laws ... contradict the most fundamental principles of law, justice and jurisprudence. They give the administrative and military authorities the power to impose penalties which, even had they been ratified by a legislative body, could only be regarded as anarchical and irregular. The Defence Laws abolish the rights of the individual and grant unlimited power to the administration."[16]

The representative of the Jewish Agency, Bernard Joseph, who was later to become Israel's Minister of Justice, went even further:

> "With regard to the Defence Laws themselves, the question is: Are we all to become the victims of officially licensed terrorism, or will the freedom of the individual prevail? Is the administration to be allowed to interfere in the life of each individual without any safeguards for us? there is nothing to prevent a citizen from being imprisoned all his life without trial. There is no safeguard for the rights of the individual. There is no possibility of appeal against the decision of the Military Commander, no possibility of resort to the Supreme Court and the administration has unrestricted freedom to banish any citizen at any moment."[16]

Even more emphatic was a future Attorney-General of Israel, Ya'acov Shimshon Shapiro, who later succeeded Mr. Joseph as Minister of Justice:

> "The system established in Palestine since the issue of the Defence Laws is unparalleled in any civilized country; there were no such laws even in Nazi Germany ... They try to pacify us by saying that these laws are only directed against malefactors, not against honest citizens. But the Nazi Governor of occupied Oslo also announced that no harm would come to citizens who minded their own business. It is our duty to tell the whole world that the Defence Laws passed by the British Mandatary Government of Palestine destroy the very foundations of justice in this land."

The Israeli legal system is based mainly on the Defence Laws and they have used them more ruthlessly than the British who originally created them. The purpose of these laws is to continue the movements of the Arabs and control the land, by any means necessary. This hunger for the land had manifested itself among European Jewish settlers in Palestine long before the creation of the State of Israel. Unfortunately, the Arabs were not aware of the intentions of the Zionist movement. In his pamphlet, "Twenty Basic Facts about the Palestine Problem", Fayez A. Sayegh raises these questions about the progression of the land problem in Palestine:

"DO YOU KNOW:

"1. THAT, when the Palestinian problem was created by Britain in 1917, more than 90 per cent of the population of Palestine were Arabs? ... And that there were at that time no more than 56,000 Jews in Palestine?

"2. THAT more than half of the Jews living in Palestine at that time were recent immigrants, who had come to Palestine in the preceding decades in order to escape persecution in Europe? ... And that less than 5 per cent of the population were native Palestinians Jews?

"3. THAT the Arabs of Palestine at that time owned 97 1/2 per cent of the land while Jews (native Palestinians and recent immigrants together) owned only 2 1/2 per cent of the land?

"4. THAT, during 30 years of British occupation and rule, the Zionists were able to purchase only 3 1/2 per cent of the land of Palestine, in spite of the encouragement of the British Government? ... And that much of this land was transferred to Zionist bodies by the British Government directly, and was not sold by Arab owners?

"5. THAT, therefore, when Britain passed the Palestine problem to the United Nations in 1947, Zionists owned no more than 6 per cent of the total land area of Palestine?

"6. THAT, notwithstanding these facts, the General Assembly of the United Nations recommended that a 'Jewish State' be established in Palestine? ... And that the Assembly granted that proposed 'State' about 54 per cent of the total area of the country?

"7. THAT Israel immediately occupied (and still occupies) 80.48 per cent of the total land area of Palestine?

"8. THAT this territorial expansion took place, for the most part, before 15 May 1948: i.e., before the formal end of the British Mandate and the withdrawal of British forces from Palestine, before the entry of Arab armies to protect Palestinian Arabs, and before the Arab-Israeli war?

From its inception, the State of Israel and the Ashkenazi Jews, who are its rulers, were an extension of Europe. This is reflected in their temperament, in their intentions and in the arrogant, racist attitude they have towards the Arabs and the oriental Jews. Israel is the most westernized country in the Middle East. It is only geographically a part of Western Asia. The socio-culture of Israel is completely alien to the Middle East. The oriental Jews are more a part of the history and culture of the Middle East. They are an Arabized people who have lived in peace in North Africa and in Western Asia for more than a thousand years. If there are any descendants of the Jews of biblical times, the oriental Jews are most likely those descendants. I repeat, the Ashkenazi Jews are European creations.[17/]

There is a need now to look at the history of the Arabs and the Jews, at least briefly, in order to see that the conflict over Palestine and who is entitled to it as a homeland, was not completely settled in ancient times and it is not settled now. Palestine is at the crossroads of the world - a meeting place for the people of three continents. Since 3500 B.C. the main population in this part of the world has been a people called Semites. They were then, as they are now, a people of many colours and cultures. In 2500 B.C. a branch of the Semite people settled in what is now Palestine. They were called Canaanites, after the first name of the country, Canaan. About 2000 B.C., the migrants from the Arabian Peninsula stabilized themselves into new State formations.

When we meet the people now called Jews for the first time in history, they are migrants from that crossroads of the world in Western Asia, now called the Middle East. Their leader is Abraham. At the time he led his people into Egypt, the civilization and the monarchy of Egypt was already old. The pyramids had been built hundreds of years before, and the origin of the sphinx was already a mystery.[18/]

Egypt was invaded for the first time in 1675 B.C. by a people from Western Asia called the Hyksos, or Shephard Kings. This invasion turned Egypt's first age of greatness into a nightmare. According to tradition, and the Bible, during this time, 70 Jews, grouped in 12 patriarchal families, nomads without industry or culture, entered Egypt. These Jews left Egypt 400 years later, 600,000 strong, after acquiring from African people all of the elements of their future religion, tradition and culture, including monotheism. Whoever the Jews were when they entered Africa, when they left 400 years later, they were ethnically, culturally and religiously an African people. The people called Jews did not enter Europe in any appreciable numbers until after 70 A.D.

It is open to question whether the European Jews have any traceable ethnic and cultural ties to the Jews of the ancient world, who were the first Jews to claim Palestine as their homeland. This first claim by the Jews of Western Asia was based on evidence that is shrouded in myth, and a question that still begs for an answer. Who said that Palestine was theirs to be taken without the consent of the people who were living there? For over a thousand years the country that the Jews would later call Palestine was populated by a people called the Canaanites. According to the traditional account of the Jewish flight from Egypt, around the year 1200 B.C., the Hebrews, led by the prophet Moses, fled from Egypt, and crossing the Sinai Peninsula settled in the area east of the Dead Sea. Under the leadership of Joshua, the Hebrews invaded the State of Canaan. Crimes of the most heinous nature were perpetrated against the inhabitants. These crimes are recorded in the Old Testament. This was an imperialist invasion, no different from many others in history. The inhabitants who were not killed were reduced to servitude, and thus the Jews took over Palestine for the first time.

They were only able to occupy parts of Palestine and the area east of the Jordan River. In the year 1020 B.C., King Saul established their first State. He was followed by King David and King Solomon who ruled until 923 B.C. Here the Jews gained their first experience in agriculture, urbanization and statecraft.

In 586 B.C. the Babylonians brought an end to the reign of the Hebrews in Palestine. During the years of their reign, the original inhabitants of Palestine remained in continuous residence. For the next 400 years, one invader after another laid claim to Palestine, the Persians in 538 B.C., the Greeks, under the leadership of Alexander the Great, in 331 B.C., and the Romans, in 64 B.C.

A great wave of Arabs from the Arabian Peninsula settled in Palestine in the year 636 A.D. This massive migration was not the first Arab population in Palestine. The Arab identity with Palestine was reaffirmed and that identity with Palestine has not been broken to this day.

From 1517 to 1917 Palestine was under the rule of the Ottoman Empire. For Arab support of the Allies in the First World War, they were promised independence. This promise was not kept. Colonialism and subsequently zionism followed. This was part of a broader picture of European expansion that had started in the fifteenth century and would climax in the closing years of the nineteenth century. The Europeans were looking for new land, labour and raw materials. Jews were a part of this search, more as Europeans than as Jews.[19]

When the European age of exploration started in the fifteenth century, the Portuguese were searching for a sea route to India by way of the Cape (now Capetown, South Africa). During one of their early expeditions, they attempted to establish a refueling station along the coast of South Africa. This expedition was undertaken upon the advice of Abraham Ben Samuel Zacuto, a Jew, who was then the Royal Astronomer for the King of Portugal, Manuel II, before the edict of expulsion was issued against Spanish Jews in Spain, then the greatest institution of learning in the world.

One of the first Jews to land in South Africa was a seaman, Ferado Martins or Fernam Martinz. He was a mariner of Vasco da Gama's ship San Gabriel. He was with the Portuguese fleet that landed at St. Helana Bay in November 1497. Between 1492 and the end of the sixteenth century, nearly half a million Jews left Spain and Portugal. The Status of the Jews varied from one European country to another. In Holland, Jews participated in the formation of the Dutch East India Company. When the company's undertaking included the occupation of the Cape of Good Hope, in 1652, the Amsterdam Jewish community was part of this settlement. Holland had absorbed a large number of Jewish refugees who had spread throughout the provinces. When Jan van Riebeek and his company of servants were preparing to sail for the Cape of Good Hope, the Jews of Holland were petitioning Cromwell for readmission to England. By the end of the seventeenth century, the Jews of Holland were the principal stockholders in the Dutch East India Company.

The Dutch East India Company established the forerunner of the South Africa of today. The Dutch were welcomed to South Africa by the Khoisan whom they later betrayed and enslaved. This small people (small only in stature and in numbers) fought the Dutch in order to hold on to its land and cattle in a series of well planned wars that the Boers or Dutch call Kaffir Wars. Finally they lost both their land and their cattle. After the great Zulu warrior Shaka was killed in 1828, the British began to push the Boers and Boers tried to move inland and establish a new republic away from British influence. This started a land war between the Zulus and the Boers. The British came to the rescue of the Boers when they were about to be defeated by the Zulus. These wars did not end until 1906. By now, because of the superior weapons of the Europeans, most of the land was lost. The continued loss of land and the plans to make Africans strangers in their own land led to the establishment of artificial African communities called bantustans.

In 1970, Dr. P. Koornhof, the Deputy Minister of Bantu Administration and Development, admitted that the bantustans made Africans foreigners in their own land. He said:

> "I am afraid to say that the African males from the homelands have no rights whatsoever in South Africa. Their rights are in their own homelands, and they are in South Africa only to sell their labour."[20]

The best known of the Bantustans is Transkei, one of the first to be established. When it was declared "independent" in 1976 by the apartheid regime, three million Africans were stripped of their citizenship and they lost 13 per cent of their land area. The whites own or control 87 per cent of the land although they are only 17 per cent of the population.

Most Africans do not live in bantustans but work in mines, factories and on farms owned by whites. Under the bantustan programme, these Africans will be turned into foreign migrants and be stripped of all rights in the country where they have lived and worked for centuries.

The bantustans are completely dependent economically on the South African Government. The bantustans have been imposed on the African people against its will. They are white-controlled black communities. The ways in which the Africans are treated in these bantustans can be easily compared to the way the Arabs in Israel and on the West Bank are treated in their own land which explains, in part, the unholy alliance between Israel and South Africa.

The most tragic aspect of the alliance between Israel and South Africa is that it is a perfectly logical alliance. By the rationale and intent of Western racism and colonialism, the alliance makes sense.

Both Israel and white South Africa are artificial settler States, created by the political backwash of Europe. They are parts of Europe mentally and culturally while being removed from it geographically. This is the basis of the schizophrenia that prevails in Israel and in South Africa. These European settlers are involved in a perpetual contradiction. They are stubbornly trying to establish a nationality in nations that never belonged to them. They are doing this at the expense of the indigenous population in the countries where they have settled. In making an assessment of the relation of Israel to white South Africa, this dilemma must be taken into consideration.

In order to understand the present dilemma and what it forecasts for the future, there is a need to consider the interplay of forces in South Africa, and in the world at large, that created the State of Israel and the apartheid-dominated State of South Africa.

This dilemma has long historical roots that predate the European settlement of South Africa and parts of Palestine now called Israel. It was in or near Africa that the people now referred to as Jews entered the pages of history for the first time. Like all people who came into Africa from other countries, they took more from Africa than they gave.

Small Jewish settlements at what is now Capetown and other parts of South Africa developed in the seventeenth and eighteenth centuries. On 17 September 1828, the Zulu King Shaka granted Nathanial Isaacs the use of a large tract of land for himself and the Jewish people. This was a gesture of friendship from the powerful king who was assassinated by two of his half-brothers before the end of the year.

The discovery of diamond and gold in South Africa profoundly affected the economic status of the Jews. They had a tradition of dealing in precious minerals. From the 1800s to the present time the Jews of South Africa have been closely related to the marketing of gold and diamonds.

The politics of zionism in South Africa is mainly a vintage of the twentieth century. This was for many years a quiet relationship with no appreciable international attention. The so-called six-day war in 1967 changed this picture and made a large number of people examine zionism in general, as a world-wide political force.

In the 10 years after the independence explosion starting in 1957 with Ghana, the new State of Israel had more goodwill in Africa than any other white controlled nation. By November 1973, most of this goodwill had been lost and nations of Africa like the Ivory Coast (no Côte d'Ivoire, Ethiopia, Zaire and Liberia, otherwise considered Conservative, had broken off diplomatic relations with the State of Israel. There are many factors involved and the assumption is that Arab influence is the main one. That is not true. The main reason for the break and the change of minds and hearts among African States is Israel's long relationship with the apartheid regime of South Africa. There are, of course, many other factors. The Africans seemed to have been slow to learn the fact that the Israelis in Africa were no different than other whites who wanted to control the resources of this vast continent, by any means necessary.

The land question in Zimbabwe did not disappear with the "peace" accord between the British Government and the Patriotic Front. The roots of the conflict over the land are deep. What is now Zimbabwe was once a well-run independent country. In 1870 when Lobengula became king, the Zulu wars against the British were not over and the British settlers' designs on African land were intensified after the discovery of gold and diamonds in South Africa. The British used a missionary, Rev. Moffatt, to get Logengula to sign a treaty which the British the right to exploit the land

and establish farms and settlements. Lobengula did not know that the treaty went that far. In 1870 parts of Mashonaland, later to be called Rhodesia, was occupied by an expeditionary force of mercenaries funded by the British Africa Company. It did not take long for white settlers to evict the Shona people from their land. In this case they did not buy the land. They took it. The Africans, in large numbers, were forced off the land. Others were brought in to work the land. Many Africans were forced off the land to sea and work to pay the heavy British taxes. White political power was consolidated by the unequal tenure and the allocation of land by white control over the labour power of the blacks. White workers had a monopoly on skilled jobs and the trade unions. In her article, "From Rhodesia to Zimbabwe", Marion O'Callaghan states that:

> "Land became more important for the settlers as the hopes entertained by Cecil Rhodes of vast mineral wealth receded. The result was the continuing appropriation of African land from the nineteenth century on. Indeed, between 1936 and 1959, according to a Rhodesian Select Parliamentary Committee on Resettlement (1960), over 113,000 Africans were compulsorily removed from 'white' farming areas.
>
> "By 1969, 250,000 whites had legal rights enshrined in the Constitution to 44.95 million acres, while 5 million Africans had the right to 44.94 million acres."[21]

The areas in Rhodesia where the Africans lived, which the Europeans called reserves, were the same as what the Boers in South Africa called bantustans. Taxes and the need for basic items of food and clothing forced the Africans to leave the reserves and work on European-owned plantations or in the cities. They pay was poor in both places. The pattern for education followed along the same lines as the division of the land. Two hundred seventy-five whites got the same appropriation as 6 million Africans. These are the conditions that led to the war for independence.

In Kenya, land hunger among the Kikuyu people led to the Mau Mau uprising and stimulated the fight for independence.[22]

My point in digressing from the land question in Palestine is that this question cannot be seen or answered in isolation. What is called Israel and the rest of Palestine is a part of an international problem created by colonialism and its handmaiden - capitalism. This is a European problem imposed on the Arabs in Palestine. The accompanying propaganda and mythology about who has a right to the land in Palestine now and who had that right in ancient times goes on in spite of a large body of scholarly writing that set the record straight years ago. Many people who are sympathetic toward Israel do not agree with the treatment of the Arabs and the settlements on land formerly considered Arab.

Dov Ronen, a research association of the Center for International Affairs at Harvard University, made the following comment on this subject in the 5 April 1980 issue of The New York Times:

> "I am an Israeli who does not support Jewish settlements in the West Bank, nor the opening of a yeshiva in Hebron. I personally do not claim sovereignty over Judea and Samaria on the basis of a biblical right, nor do I consider Israel's sovereignty there essential to our national security in all circumstances. Furthermore, although I would oppose any plan to redivide Jerusalem, I can envision a new administrative arrangement in the city that would address and seek to satisfy Muslim and Palestinian aspirations.
>
> "Having studied the issue of self-determination in world politics, I recognize this as a right that the Palestinians must be accorded. The Palestinians should have the right, both in principle and in practice, to control their lives and not be ruled by Israelis or anyone else. If independent statehood rather than 'mere' autonomy is what they want, I for one support their quest for statehood."

In spite of strong Jewish voices such as Moise Menuhin, Ahad Ha'am, Martin Buber, Albert Einstein, Alfred Lilienthal, Israel Shahak and I. F. Stone speaking out against the Zionist treatment of the Arabs and the settlements on Arab land, the expansion of Israel at the expense of the Arabs continued. Also continued is the attempt to justify this expansion on the basis of Bible texts.

On this point the Jewish-American writer, I. F. Stone, has this to say:

> "These contradictions now play their part in the efforts at peace in the Middle East. At one end of the spectrum the Bible preaches justice and universal brotherhood. At the other end it contains some of the most primitive and blood-thirsty ethnocentric teachings in human literature. So Menachem Begin, Israel's fundamentalist prime minister and the religious parties on which he depends for a thin and precarious parliamentary majority, claim that they cannot give up the West Bank because God gave it to the Jews.

"This can, of course, be supported from Bible texts. Indeed, if we are to go back to a literal reading of Holy Writ for guidance in the Middle East conflict, the religious ultras of the Israeli community can find much else along the same lines, and in the same direction, though carried to lengths that would make even the most fanatical among them quail. It is, of course, true that in the final chapter of Numbers, God gave the whole of Canaan, west of the Jordan, to Israel. But if the Word of God is to be taken literally, whose who now dwell on the West Bank may tremble. For only three short chapters earlier, the Lord says, "Ye shall drive out all the inhabitants of the land from before you, destroy their Holy Places and 'dispossess' them.

"Nor is that all. Numbers 33 ends with the fiercest warning of all if the children of Israel do not dispossess the inhabitants: 'I shall do unto you, as I thought to do unto them'. If the Jews do not drive out the Canaanites, God will drive out the Jews. This is the harsh theology of depopulating the land to make room for one's own."[23/]

Palestinian leaders and organizations in the United States say Israel is trying to remove all vocal opposition to the Camp David "autonomy plan" by expelling Palestinian mayors in the occupied territories or forcing them to resign.

I will conclude this paper with I. F. Stone's warning, relative to this situation:

"Some people have been cooking up a brew that could poison the peace not only of the Middle East but of the world. It is the duty of the American Government and American-Jewish leadership to use their leverage, financial and political, to put a stop to this criminal concoction before it is too late. Begin, characteristically, chose this moment to announce 10 more settlements on the West Bank. As usual, he promises these will be the last, Israel and Palestine, says his opponents on the right would prefer a military takeover of the Israeli Government. Only recognition of the Palestinian right to self-determination can revitalize the peace talks and avert the slide to catastrophe."

Notes

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2/ Donna Richards, "The dominant modes of Western thought and behavior: an ethonological critique", (The Graduate Faculty of Political and Social Science, The New School for Social Research, 1975), chap. IV, pp. 301-360.

3/ Donna Richards, "The Ideology of European Dominance", The Western Journal of Black Studies, vol. 3, No. 4 (Winter 1979), pp. 244-249.

4/ Norman F. Dacey, "Democracy in Israel", paper especially prepared for distribution to the members of the United States Senate and House of Representatives, on behalf of the American Palestinian Committee, 1976, p. 1-29.

5/ Alfred Lilienthal, "Israel is an anti-Judaistic State", Palestine Digest, vol. 8, No. 6 (September 1978), pp. 24-25. See also "Israel is about as apartheid as South Africa". Interview with Israel Shahak, Chairman of the Israel League for Human and Civil Rights in Intercontinental Press, vol. 13, No. 12 (31 March 1975), pp. 428-431.

6/ George J. Tomeh, Israel and South Africa: The Unholy Alliance (New York, The New World Press, 1972), pp. 48-50. See also Richard P. Stevens and Abdelwahab M. Elmessiri, Israel and South Africa: The Progression of a Relationship (New Brunswick, NJ, North American Press, 1977), pp. 57-83.

7/ Fayez A. Sayegh, "Twenty Basic Facts about the Palestine Problem", Palestine Liberation Organization Research Centre (Beirut, 1966), pp. 4-5.

8/ Sayegh, Palestine, Israel and Peace, pp. 8-9.

9/ Naseer H. Aruri, "The Oriental Jews of Israel", Zionism and Racism (London, International Organization for the Elimination of All Forms of Racial Discrimination, 1977), pp. 107-121. See also Raphael Patai, The Jewish Publication Society of America (Philadelphia, PA, 1953), pp. 27-55.

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12/ Isom Sartawi, *A Legacy for the Palestinians*, Council for the Advancement of Arab-British Understanding (London, 1975), pp. 1-8. See also Moshe Menuhin, "Zionism reassessed", *Arab Perspectives*, vol. 1, No. 1 (New York, April 1980), pp. 12-19, and *Nationalism and the Jewish Ethic: Basic Writing of Ahad Ha'am* (New York, Schocken Publishers, 1962), especially the chapter entitled "The Jewish State and the Jewish People", pp. 63-89.

13/ *Zionism - the obstacle to peace*, Council for the Advancement of Arab-British Understanding (London, 1978), pp. 2-4. See also Abdelwahab M. Elmessiri, *The Land of Promise* (New Jersey, North American, 1977), pp. 1-18.

14/ "Zionism and racism - a case to answer", European Co-ordinating Committee of Friendship Societies with the Arab World (Paris, 1972), pp. 1-4. See also Abdelwahab M. Elmessiri, *op.cit*., chap. 8.

15/ Michael Adams, *Israel's Treatment of the Arabs in the Occupied Areas*, (Paris, International Committee for Palestinian Human Rights, 1976), pp. 1-6. See also Maxine Rodinson, *Israel, A Colonial-Settler State*, (New York, Pathfinder Press, 1973), pp. 27-33.

16/ Adams, *op.cit*., pp. 5-11.

17/ Ralph Patai, *Israel between East and West*, pp. 9-55.

18/ A. H. Sayce, *The Egypt of the Hebrews and Herodotos* (London, Rivington, Percival Co., 1896), pp. 7-41. See also Ismail Shammant, *Palestine: Illustrated Political History*, Palestine Liberation Organization (PLO), distributed by the Arab Information Center, New York.

19/ John Henrik Clarke, "Israel and South Africa: The unholy alliance against Africa's people", *Black Book Bulletin*.

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C. HUMAN RIGHTS AND THE INALIENABLE RIGHTS OF THE PALESTINIANS

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The current problems surrounding the conflict over the human rights of the Palestinian people have their origin in the violations of human rights attendant to modern European imperialism. Indeed when one looks about the globe, whether at the hand of a ruthless domestic oppressor or a foreign oppressor, the glaring violations of human rights are largely the product of the upheavals and instabilities left by a dying European imperialism. The recent war in South-east Asia and the continuing violence after the defeat of Euro-American imperialism in that area is one classical example. The international racial wars in southern Africa and the continuing racial struggles in Namibia and South Africa are another. In both instances as well as in others, that imperialism took the form of colonialism - the imposition of an alien order on an indigenous order - creating a dominant/subordinate relationship between alien and indigenous peoples. In addition, the ideological justification for that imperialism rested on the belief in the inherent racial and ethnic superiority of the colonizer.

Change in the dominant/subordinate relationship - the achievement of parity and/or dominance (status quo ante) by the indigenous group - has required violence or the threat of violence. Given the myth of racial and ethnic superiority informing the relationships, the attendant violence has been characterized by the violence of race and ethnic conflict. The Palestinian issue is bound in such a legacy.

The violation of human rights, whether couched in the legalism of domestic and/or international law, begets violations of human rights. It should be axiomatic to this generation of humankind that modern imperialism - the imposition of an alien order on an indigenous order - inevitably leads to disorder. The politics of disorder inevitably leads to violations of human rights.

The Palestine issue of our day and the gross violations of human rights endemic to that issue are rooted in two successive imperialisms: British imperialism and political Zionist imperialism. The former resulted from the dissolution of the Ottoman Empire; the latter from the dissolution of the British Empire. The legacy of imperialism, however, continues and the human rights of the Palestinian people are sacrificed to that legacy.

Human rights: the problem of definition

The primacy given to the place of human rights since the Second World War would lead one to believe that not only is there a clear definition of what human rights are, but that there is also universal acceptance of that definition. Nothing is further from the truth. Assumedly, human rights are rights that derive basically from one's uniqueness as a human being - a uniqueness that distinguishes a human being from all other beings created or man-made. A further assumption is that, regardless of the accident of culture, sex or race, all human beings individually and collectively possess those basic rights inherently solely by virtue of being human.

While there may be little, if any, quarrel with the foregoing assumptions, there is no universal agreement on what those specific basic human rights are. Expectedly, the differences derive from the differences in the cultural and historical context in which basic human rights have been established. An investigation of the differences, however, seems to indicate difference in focus or emphasis and in processes for guaranteeing and preserving human rights than in a rejection of human rights. In what is usually termed the "western" tradition, the emphasis is on the right of the individual. In the "southern" and "eastern" tradition, the emphasis is on the responsibility of the individual. The former isolates the individual and creates a dichotomy between individual and collectivity. The latter incorporates the individual in the collectivity and posits the preservation of rights through mutual responsibility. Thus, in both instances the rights of the individual are acknowledged, one exclusive of the collective, the other inclusive of the collective.

Regardless of the focus and emphasis, if human rights derive from the fact of membership in the human race, however they are specifically defined and codified, they must include the right to spiritual, emotional and material fulfilment. Simple justice requires it. One cannot have been born with innate spiritual, emotional and material needs and the faculties for pursuing and fulfilling those needs only to have them defined into or out of existence. The existence of human rights is not and cannot be dependent on definition. They derive from the essential nature of the human being. As a matter of fact, the catalogue of basic human rights listed in the many domestic constitutions, in the Universal Declaration of Human Rights, in the several covenants that have become a part of the corpus of international law can all be subsumed under the three categories of spiritual, emotional and material rights. The real problem of human rights is one of specific identification not definition and stems from politics and law in regard to enforcibility and sanctions.

To put it another way, the real problem in issues of human rights stems from the confusion surrounding law and justice. The former is always a reflection of the will of the strong and is the end product of the political process. The latter derives from the basic human instinct for fair play. In the former, the will of the strong may be represented in the values and interests of a single tyrant, a dominant minority or oligarchy or a majority. And the effectiveness of law resides in the ability of the strong to enforce its law. Justice, however, is dependent on the commitment of and willingness of the strong to enforce fairness. Because law is a function of power, and justice is a function of the will to be just, it is only when the will to be just combines with the will and ability to enforce justice that justice prevails. The emphasis on exclusive individual rights in some human traditions and the emphasis on inclusive collective responsibility in other human traditions have made both the specific identification and the enforcibility of human rights by a world organization such as the United Nations essentially a matter of international politics.

The United Nations itself reflects the contrariness of the two traditions. On the one hand the United Nations was founded on the belief in collective responsibility as an instrument for effective peaceful resolution of conflict. On the other hand, its member nations function from the premise of the primary of the right of the sovereign State. Consequently, the mutuality of responsibility as between he collectivity and each of its constituent parts recedes in favour of the rights of the individual constituent. Accordingly, the resolution of conflict by the United Nations itself becomes a matter for a political solution - a function of power. And the United Nations more often than not has been an arena for the playing out of international politics than an instrument for the carrying out of collective responsibility.

The Palestinian question and human rights

It is in the context of the foregoing that the issues relating to the human rights of the Palestinians have been played out. What those rights are have been clearly identified in the Charter of the United Nations of 1945, the Universal Declaration of Human Rights of 1948 and the Geneva Conventions of 1949. Further cognizance of the rights of the Palestinians has been taken in the many resolutions of the United Nations condemning the violations of Palestinian rights by the State of Israel.

Among the rights applicable to Palestinians, the Universal Declaration of Human Rights lists the rights to life, liberty, security and property. Of the four Geneva Conventions of 1949, the Convention relative to the Protection of Civilian Persons in Time of War is particularly relevant. Article 27 provides that civilians have a right to respect for their persons and honour, the rights of their family, their religious convictions, their culture. Article 32 prohibits murder, torture and corporal punishment. Article 33 forbids collective punishment such as intimidation, pillaging and reprisals. Article 49 protects against individual or collective deportation and forcible transfers of people. And article 53 forbids destruction of personal or real property. Israel and the Arab States among others were signatories to this Convention.

Of all the human rights of the Palestinians which the several declarations, covenants, etc., of international law have purported to protect, none is more fundamental than the right to self-determination. The right to self-determination as distinct from the principle of self-determination has come to mean the right to full self-government. Article 1, paragraph 2 of the Charter of the United Nations specifically links the right of self-determination to the equality of all peoples. Equality of all peoples admits of nothing less than the right to full self-government.[1/]

Although other rights might accrue to the Palestinians by virtue of their being human beings, the United Nations has clearly recognized their inalienable right as a people to "national independence and sovereignty in Palestine" and saw the exercise of that right as essential to any effort to achieve a lasting peace in Western Asia.[2/]

Any action, therefore, obstructing the return of the Palestinians to full self-government in Palestine or the free pursuit of the fulfilment of their spiritual, emotional and material needs in Palestine is a violation of the human rights of the Palestinians under the Charter of the United Nations, the Universal Declaration of Human Rights and international law.

The legacy of imperialism and Palestinian human rights

Although much attention has been given to the human rights of the Palestinians since the Jewish State came into existence on 15 May 1948, as pointed out earlier, the issue of Palestine and the violation of Palestinian human rights had their origins in nineteenth century European colonialism. That colonialism was one through which Europeans arrogated to themselves the right to control the destiny of other peoples and exploit the wealth of the world. It was a colonialism that was informed by the De Gobineauan ideology of whiteness and the assumption of the inherent superiority of European Christian civilization over all others. Armed with the social Darwinistic conviction that it was God's will that white Christian men should rule the world, they set out to impose their own order on the "wards of civilization".

In the broad sweep of the history of mankind, the short-lived domination of the Asian and the African by Western Europeans will be seen as but a passing moment. For the people who lived and died under that domination, however, it was a lifetime.

For the Palestinians, that colonization started with the mandating of Palestine to Great Britain under Article 22 of the Covenant of the League of Nations. The language of the article is instructive as it reflects all of the assumptions and beliefs that justified European colonialism in the first place.

> "To those ... territories ... which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization ...
>
> "The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their geographical position can best undertake this responsibility...".

Although the Palestinians were not considered able to stand by themselves and in need of tutelage by a European people, they were considered to be more advanced than Africans and other Asians and were listed as category "A" Mandates. Those considered to be less civilized were categorized as "B" and "C" Mandates.

What was unique about the Palestine Mandate, however, was that it also included the elements of the Balfour Declaration of 2 November 1917 calling for the establishment in Palestine for a "national home" for Jewish people. Articles 2 and 6 of the Mandate provided both for the establishment of a Jewish national home and for facilitating Jewish immigration under suitable conditions. Approved by the League of Nations on 24 July 1922, the terms of the Mandate set the stage for almost a half century of continued conflict between Jews and Arabs in Western Asia and north-east Africa. That conflict has led to several major wars, loss of thousands of lives and has spilled over into countries around the world affecting the free pursuit of human rights of millions of people.

Through the Palestine Mandate, the Supreme Council of the Allied Powers and the League of Nations gave international legitimacy to a dual colonization of an Asian people by Europeans. For the Jews for whom immigration to Palestine was made legal were largely European nationals, citizens of European countries. The founder of political zionism, Theodor Herzl, was an Austro-Hungarian journalist. Article 4 of the Mandate provided for Herzl's Zionist Organization to be the appropriate Jewish agency "for the purpose of advising and cooperating with the Administration of Palestine ... [and] to assist and take part in the development of the country".

In effect the League of Nations established two Mandatary Powers in Palestine - Great Britain and the Zionist Organization. Thus, a political organization which represented no Government, no single nationality group, was effectively given the authority to function as a co-mandatary Power.

The question about what or whom Herzl's Zionist Organization really represented and the question as to whether persons subscribing to the Jewish religion are a nation, a people or members of a religious faith have been argued extensively.[3]

That Herzl and other leaders of the Zionist movement saw themselves essentially as a colonizing political organization to further their own and the interests of "gentile Zionists" of Europe has been extensively documented by Professor Abdelwahab M. Elmessiri.[4]

Further, the fact is that though not a majority, the Ashkenazi or European Jew from the beginning of Israel as a State have dominated in all political and economic institutions of the country. The attitudes of the founders and leadership of Israel clearly demonstrates their perception of Israel as a European country geographically located in Western Asia. The oriental and Sephardic Jew was viewed as "a race the likes of which we have not yet known in this country. You will find among them dirt, card games for money, drunkenness and fornication. Many of these suffer from serious eye, skin and venereal diseases, not to mention immorality and stealing".[5]

More directly, when Israel applied in 1966 for membership in the European Economic Community (EEC), the justification offered by Pinhas Sapir was: "Israel belongs to Europe - culturally, politically and economically - despite her being situated in the Middle East geographically".[6]

Similar expressions were oft repeated by leaders such as Ben Gurion, Golda Meir, Abba Eban and Moshe Dayan. The leaders of and apologists for political zionism have left no doubt that the State of Israel was to be a European State. The Mandate of the League of Nations was but the instrument to accomplish the creation of Israel as a European outpost in Asia - in which even the non-European Jew was to have a subordinate status. The subsequent and continuing colonization of Palestine and the denial or restriction of equal opportunity to all but the Jew of European descent has borne out that intention.

As the instrument for legitimizing the imposition of a colonial order on Palestine, the mandating of Palestine was *in se* a violation of the human rights of the Palestinian people. Even if one were to accept Article 22 of the Covenant of the League of Nations as a practical exercise of responsibility by the Allied Powers after the Second World War to ensure international peace and security, the mandating of Palestine violated that Article. Article 22 granted that Palestine and "communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized". As a class "A" Mandate, all that the League envisioned was "the rendering of administrative advice and assistance by a Mandatary until such time as they are able to stand alone". The Palestinian Arabs rejected any kind of advice and assistance and demanded immediate and full independence.[7] They were, however, willing to accept a United States mandate. The provision of Article 22 that "the wishes of these communities must be a principal consideration in the selection of the Mandatary" was ignored. Thus, not only the human right to self-determination and independence was denied the Palestinians, but the legal right to have their wishes considered was denied. They were not even consulted in the matter.

From Mandate to partition

The implementation of the British Mandate over Palestine not only continued the imperial legacy of the denial of the human rights of the subordinate Palestinians, but fixed that subordinate status so that it continues today. British rule of Palestine during the Mandate period is instructive not only in how colonialism erodes the human rights of colonized people, but in the feebleness of British colonialism where the indigenous population could not be co-opted as an administrative and policing buffer - so-called "indirect rule". Thus, from the very beginning of the Mandate, British "order" led to increased disorder and the human rights of the Palestinians were sacrificed in the disorderly process.

The disorder of British colonialism in Palestine derived from the inherent incompatibility between the Mandate's provision to establish a "Jewish national home" and "self-government" for the indigenous population of Palestine. The two were mutually exclusive and could only lead to gross violations of human rights of all parties to the conflict. Unfortunately for the Palestinians, the balance of power weighed in favour of the alien Jewish population who were brought into Palestine as co-colonizers. It was primarily through the British policy of almost uncontrolled immigration of Jews into Palestine that Palestinian human rights were violated. That the leaders of political zionism intended to drive the Palestinians out of Palestine and made their intent clear to British leaders is well documented.[8]

By the 1940s the goal of transfer of the Palestinian population to other Arab countries was an accepted and known fact. Only after the first open and violent reaction of the Palestinians in 1936-1939 did the British make an effort to control the immigration of Jews and act on the Mandate "to secure the development of self-governing institutions". Palestine was to be granted independence in 10 years and Jewish immigration over the next 5 years was to be limited to 75,000 and thereafter only with the consent of the Palestinian Arabs as the indigenous majority population.

Recognizing the impossibility of reconciling the conflicting interests of Jews and Palestinians, the British abandoned any attempt at reconciliation and proposed first a partition of Palestine between the two groups and limiting British administration to enclaves around Jerusalem and Bethlehem. With the outbreak of hostilities in Europe in 1939 and the need to protect the Suez Canal and the Red Sea, that partition plan was modified to creating a federated State comprising an Arab, a Jewish and a neutral zone. This plan persisted until after the Second World War and tens of thousands of illegal Jewish immigrants entered Palestine, exacerbating tensions between Palestinians and Jews.

The British realized that they were no longer capable of administering Palestine and in February 1947 asked the United Nations to find a solution the Palestinian problem. Having rejected in its Biltmore Programme of May 1942 the ambiguity of the "national home" concept of the Balfour Declaration, the World Zionist Organization declared it would accept nothing less than an independent Jewish State in Palestine. The Arabs demanded an independent Palestinian State. Any semblance of order broke down and Jewish terrorist tactics increased under groups like the Stern Gang and the Irgun headed by Menachem Begin. The massacre of 300 Palestinian civilians at Deir Yassin in April 1948 epitomized the efforts of the political Zionists to drive out the Palestinians in preparation for an independent Jewish State.

The partition resolution was adopted by the United Nations General Assembly on 29 November 1947. The United Nations Commission on Palestine, established to effect a transition to independence for the two States, was denied entry by the British into Palestine. The Commission sought from the Security Council a United Nations military force.

The request was denied and a United States resolution to enforce partition was accepted. Hostilities increased. On 1 April 1948 the Security Council asked the Secretary-General to consider the question of the future Government of Palestine. On 19 April, the General Assembly met to consider establishing a special trusteeship status for Palestine. On 14 May 1948, the General Assembly abolished the Mandate and authorized appointment of a United Nations Mediator. On the same date the British withdrew from Palestine. The Zionist leaders in Palestine unilaterally proclaimed the birth of the State of Israel and, minutes later, the United States recognized Israel as a sovereign and independent State while the United States Representative at the United Nations, Philip C. Jessup, under instructions, was speaking in favour of a temporary trusteeship for Palestine. As should have been expected, all out war broke out between the Jews of Palestine and the Arab States. European colonialism had won the day and the human rights of millions of people in Western Asia and north-eastern Africa were sacrificed for political gain.

What is significant about the degeneration of events leading up to the Jewish unilateral declaration of independence in Palestine in terms of human rights is that the existence of laws purporting to safeguard human rights were disregard or bent to serve crude political ends. Human rights - the right of all human beings to seek spiritual, emotional and material fulfilment - were denied those not strong enough to ensure the protection of those rights for themselves. In a world in which rights are defined to exist in a vacuum - in a non-associational context - there is not and cannot be any guarantee except that derived from power. The notion that an individual has certain individual and inviolable rights is a noble but futile one without the power and the will to guarantee those rights.

First of all, the concept of the individual (and the corollary concept of the collectivity) derives from the belief in and abstraction of the indivisibility of human nature as a composite of animality and rationality - body and soul. That it now has the meaning of singularity in some cultures results from those cultures' attempt to give the human being a uniqueness distinct from other beings. The attribution of that same singularity to distinguish one person from another is to say that that which distinguishes man from non-man is the same as that which distinguishes man from man. The conclusion of the obvious illogic is that each man is a universe unto himself. To further base human rights on a concept of each "individual" as a universe unto himself is to isolate human rights and give them an existence that contradicts reality. For no human - individual - exists except in some kind of relationship with other human beings. Therefore, an individual's rights exist only in the context of a relationship to other individuals. Thus, it is meaningless to speak of a recluse in the desert as having rights. He has none.

The import of the foregoing is that the premises that inform discussions on human rights tend to imbue rights with a certain exclusivity that pits the rights of one individual against the rights of another individual and the rights of an individual against the rights of the collectivity. The expression, "Your rights end where my rights begin" is reflective of that conflictual exclusivity - a false dichotomy.

On the contrary, the concept of responsibility inherently implies a responsive relationship between individual and individual, and individual and collectivity. The concept of responsibility tends to focus on reconciliation rather than conflict and emphasizes mutuality of interests rather than adversary relationship. The application of the foregoing to the Arab/Jewish conflict does not mean that there would not have been a conflict of interests between the two groups. The clash of values and/or interests is potentially present in all human relationships. That is the stuff of politics and the impetus for the ordering of individual and group behaviour in any gathering of two or more human beings. It may, however, have given greater force to the action of those who sought a fair and just resolution to the conflict.

As a matter of fact, had European Christians been responsible, there probably would not have been such a burning desire on the part of Jewish citizens of Eastern and Central European States for escape to some "homeland" identified in the Bible as the place where ancient co-religionists ruled for a brief period of time almost 25 centuries before. The human and civil rights of European Jews were violated by their own Governments and fellow citizens, not by the Palestinians. The responsibility for restoring and protecting those rights rested with European Christian dominant Governments. In the rights versus rights context of the European tradition, given the overwhelming power disparity between Christian and Jew in Christian societies, the Jew could not win. Wanting to rid Christian society of Jews, the rights of Jews were pitted against the rights of Muslims in Palestine where the Zionist "homeland" ideology meshed well with the Christians' own sentimental reading of the Bible. Reducing the Jewish and Gentile Zionist versus Palestinian Muslims conflict to a political solution based on rights alone abandoned the latter to the goodwill of the combined power of the former.

The real human rights tragedy of the conflict over Palestine is that neither Jew nor Muslim Arab emerges the victor. The temporary victor has been the original colonizing Powers of Europe. Europe has rid itself of most of its Jews and the assimilated European Jew in Palestine has been the eager instrument of that modern exodus. Both Jew and Palestinians have been the victim of the same discrimination endemic to the European colonial legacy.

In view of the current political realities (the existence of both Jews and Muslim Arabs in Palestine), hope for a final solution to the Palestinian problem may rest only in the principals to the conflict recognizing that they are mutual victims of the same historical phenomena. That will require acceptance of present mutual rights (historically legitimate or not) and mutual responsibilities and starting anew. Palestinian Jews and Muslim Arabs have lived in peace in Palestine before.

That may also mean that the Europeanized Jews will have to make a choice between Europe and Asia. The responsibility of the Euro-American will be to accept a Palestinian solution arrived at by true Palestinians - Muslim Arab and Jew. A continuation of the pursuit of the dream of political zionism - Gentile and Jew - can lead only to continued violation of the human rights of Palestinian Jew and Palestinian Muslim Arab.

Notes

1/ W. Ofuatey-Kodjoe, The Principle of Self-Determination in International Law (New York, Nellen Publishing Company, 1977), p. 161.

2/ General Assembly resolutions 194 (III) of 11 December 1948, 3326 (XXXIX) of 22 November 1974, 3376 (XXX) of 10 November 1975 and 31 (XXXI) of 29 November 1976.

3/ Cf. Nathan Feinberg, "The recognition of the Jewish people in international law", Jewish Yearbook of International Law, 1948, pp. 1-26; W. T. Mallison, Jr. "The Zionist-Israel juridical claims to constitute 'the Jewish people' nationality entity and to confer membership in it: appraisal in public international law", The George Washington Law Review, vol. 32, 1964, pp. 983-1075.

4/ Abdelwahab M. Elmessiri, The Land of Promise (New Jersey, North American, 1977).

5/ Michael Selzer, The Aryanization of the Jewish State (New York, Black Star, 1968), p. 50.

6/ Ibid., p. 70.

7/ M. Cherif Bassiouni, "The Palestinians' rights of self-determination and national independence", Association of Arab-American University Graduates, Information Paper No. 22 (December 1978), p. 10.

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D. HOW THE PALESTINIANS BECAME REFUGEES: DENIAL OF BASIC HUMAN RIGHTS

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Introduction

The scope of this paper is restricted in many ways. It must be short and concise so as to be presented within preferably 30 minutes. At the same time, it must give as much information as possible about the Palestinian problem generally and the sufferings of the Palestinian refugees specifically, within its historical development. It is a paper that has to demonstrate the sufferings of the Palestinian refugees of the past 33 years of exile in a few pages. For these reasons this paper can hardly be comprehensive.

Yet we cannot analyze the Palestinian refugee problem in isolation from the totality of the Palestinian question. Nor can we analyse the problem in ignorance of the salient historical factors that are woven around it. These factors inevitably paved the way for the direction that the Palestinian problem, particularly the refugee aspect of it, has taken.

This paper therefore sets out to analyse two main issues. The first is to give a brief historical development of the Palestinian problem and demonstrate that the migration of the Jews is not different from the migrations of other peoples in the world. The second is the core of my paper, namely to examine the problem of Palestinian refugees resulting from the establishment of Israel as a Jewish State and the subsequent evacuation, dispossession, confiscation of land and other property and wanton massacres that have led to the flight of thousands of Palestinians from Palestine.

Historical background

Regarding the Palestinian problem, the world community is caught in a whirlpool, mainly of its own making (63 years ago) which has taken it more than three decades to grapple with and might take more. It has taken the Palestinians and lovers of peace and justice all over the world year after year to bring the world's attention the suffering of the Palestinians, of those displaced and homeless, tortured and degraded but struggling for their rights and their basic human right to self-determination. It has taken more than two decades for these people and progressive forces in the world to break the conspiracy of silence, the wall of indifference and the chill of hostility towards the Palestinian problem. Most people in the world are beginning to accept that the Palestinian people are suffering, are displaced and that they have basic human rights which must be realized. Yet the solution so far by the United Nations seems unpracticable and partly unacceptable to the Palestinians, the objective solution becomes repelling as it spells danger to vital economic interests of some countries, but it is becoming impossible to ignore the inalienable rights of the Palestinian people. Hence the whirlpool that has rendered any decisive solution by the United Nations ineffective.

The Jewish State - Israel - was the creation of mainly well-off, educated Jews with the material assistance of almost all the major European countries and the United States. The justification for establishing a "national home" for Jews by getting rid of, deporting and massacring the Palestinians, confiscating Palestinian property including land, initially took a religious stand but as it slowly lost ground, the justification has increasingly become "self-defence", "right to a secure border" and "right of existence". On deeper analysis, we find out that the justification is neither the one nor the other.

Examining the many resolutions of the United Nations, we see a qualitative change in their form. The early 1948-1974 resolutions tended to ignore the Palestinians' right to self-determination and the establishment of their national home in the whole of Palestine. Until 1967, the resolutions mainly referred to refugees and not to the Palestinian people. The United Nations recognized the right of return of the refugees to Palestine to live in peace under Israeli rule. This is reflected in General Assembly resolutions 194 (III) of 11 December 1948 and 273 (III) of 11 May 1949. After the 1967 war, during which Israel expanded her territory, the wording of subsequent resolutions changed. Israel was called upon to withdraw from the territories occupied since that date and there was a tone of warning to the effect that Israel should not be attacked after that. This is reflected in Security Council resolutions 242 (1967) and 338 (1973). After 1974, there was a change in the quality of the resolutions. The Palestinian problem was identified as the core of the Middle East conflict and the inalienable rights of the Palestinian people were specified and recognized. A Committee on the Exercise of the Inalienable Rights of the Palestinian People was established by the General Assembly in 1975 and in resolutions 3236 (XXIX) of 22 November 1974 and 3375 (XXX) of 10 November 1975, the General Assembly called for the invitation of the Palestine Liberation Organization to participate on an equal footing with other parties in all efforts, deliberations and conferences on the Middle East held under the auspices of the United Nations.

In 1977, the General Assembly established the Special Unit on Palestinian Rights within the United Nations Secretariat, which was enjoined to prepare and promote publicity of United Nations resolutions on Palestine and the activities of the Palestinian Rights Committee and other United Nations organs.

Certainly this is a very significant advancement for the Palestinian people. There are obvious factors that have facilitated this change. One is the realization by the Palestinians that the liberation of their country is the obligation of the Palestinians themselves particularly, and that of the Arab countries and other peace-loving countries generally. Secondly, the United Nations of 1977 was quantitatively and qualitatively different from today's. Of the 156 Member States, about 120 comprised the so-called developing countries, who supported the cause of the Palestinians. However, the decisive influence of the Western European countries and the United States in the United Nations resulted in ambiguously worded resolutions like the Security Council resolutions of 1967 and 1973 and General Assembly resolution 32/20 of 25 November 1977 recognizing the inalienable rights of the Palestinian people of self-determination, return and to establish a Palestinian State in Palestine while, in the same resolutions, maintaining Israel's right of existence.

Contradiction

If the creation of Israel meant the massacre of hundreds of unarmed Palestinians and the confiscation of their land and other property, how can the inalienable rights of the Palestinians be realized without affecting Israel as a State and its alleged rights over Palestine? This is a contradiction which struggle and time will solve the way the Vietnamese, Angolan, Mozambicuan, Zimbabwean and other questions of domination and oppression were solved.

Jewish migrations

The migration of Jews to Europe, Russia, America, France, Austria, Hungary and Britain was not basically different from the migration of other peoples in the Middle East and elsewhere in the world. Their migration, like that of other people, was motivated by economic rather than religious or racial factors. The economic and social developments of Eastern Europe and the United States from feudalism to capitalism affected the ways in which the Jews were treated and hence their migration from one European country to another. Nor did these developments affect the Jews alone. The well-known religious wars that shook Europe for 30 years led to the prosecution of Catholics in Protestant countries and Protestants in Catholic countries and the migration of peoples all over Europe.

The Jews, however, had one peculiarity. Wherever they went they maintained their identity and tradition, including group life. They were like many other immigrants, known for hard work and skill in finance management. The impoverishing effect of usury both to the serfs in Europe and the landed gentry led to the hatred of usury. It is significant to note that usury dissolved the natural feudal economy by dispossessing the peasants and the serfs and accumulating wealth, thereby laying a foundation on which a later stage of development was built - the capitalist mode of production. Hatred of usury turned into hatred of the Jews.

In Britain for instance, when the Papacy still reigned, it was un-Christian to practice usury. Most Christians could not therefore practise it. The Jews, being non-Christians, were not affected by the Roman laws. They practically were the usurers. They lent money to kings and landlords as well as to the serfs. Consequently, they obtained a royal monopoly of finance and trade. In Britain, the Jews formed the majority of the merchant class before the growth of local merchants. The restrictions on trade that inhibited the growth of local merchants led to struggles against them, which meant a struggle against the Jews. The struggle, however, was between the old feudal restrictions on trade and the development of mercantilism; the struggle against the Jews was only consequential.

The forces of history against feudalism and the privileged money lenders were consequently directed against the Jews. They were subject to persecution, discrimination and maltreatment. In tsarist Russia, the Jews were restricted to ghettos and could not join certain professions. In Britain the hatred of Jews is reflected in the now infamous Shylock in "The Merchant of Venice" by Shakespeare. Thus, thousands of Jews left Europe for the United States around 1881. By 1930, over 3.5 million Jews had migrated, mainly from Russia, Austria, Hungary, Romania and Britain to France and the United States and some 200,000 went to Palestine. It is significant to note that the seventeenth and eighteenth centuries were a period of nationalistic sentiments all over Europe. Movements in different parts of Central Europe struggled for the establishment of nation States. These demands were in keeping with the needs of industrial production and development, which were in their initial stage. The struggle to establish nation States also meant the creation of entities within which trade was unrestrictedly facilitated rather than hampered. Nationalistic sentiments led to hatred of foreigners, including Jews, especially when they migrated by thousands. So great was the hatred of the Jews in Europe that the United States and France, upon attaining independence and establishing a republic, respectively, declared that Jewish citizens held the same rights as other citizens.

During this period, the Jews, mainly because they were maltreated, advocated their own nationalistic sentiments. As they were scattered all over Europe and the United States, they had only rights of citizenship. They could not claim any part of Europe or the United States as their own for the purpose of establishing their own national home. Hence the search for one. In 1903 Britain offered Uganda but it was rejected. Their conviction that they should establish a national home for themselves was increased by the massacre of millions of Jews by Nazi Germany in the early 1940s. By that time, Palestine had been earmarked for the Jews. Yet the Jews who migrated to Palestine were the elite, militarily trained and rich. It had become a home for rich European Jews, not for every Jew.

Preparing Palestine for the European Jews

As far back as 1897, Herzl, who was among the champions of zionism, called for a congress at Bâle. The objective of that congress was to lay a foundation stone for the establishment of a Jewish national home in Palestine.[1] Many subsequent congresses of the Herzl type were held. Finally, a Zionist agency was formed to collect money and establish a fund for that money.[1] Contributions and donations by rich European Jews like Rothschild and others were easily granted. The money facilitated the purchase of large tracts of Palestinian land.

Mainly as a result of Jewish pressures in the United States, France, Britain and the European countries, Britain managed to conclude the Balfour Declaration of 1917. It was endorsed immediately by France in June 1917, Italy in 1918, the United States in 1918, and Greece and Japan around that time. The Declaration recognized the right of the Jews to a national home in Palestine. The Palestinians' protest against the Declaration is reflected in the illusory guarantee by the same Declaration that non-Jewish Palestinians should not be prejudiced. Logically and practically, the implementation of the first meant the denial of the latter. In 1922 Britain was appointed by the League of Nations (the Jews had submitted a memorandum in favour of a British Mandate) to be the Mandatary Power over Palestine.

The Mandate instrument was drafted by both Weizman and one Benjamin Cohen, both known Zionists. Article 1 of the Mandate stipulated a so-called right of Jews to establish their national home. Article 2 recognized Britain as the Mandatary Power. The following clauses were added to article 3 of the Mandate document:

> "1. In the administrative, political and economic fields, Palestine must be prepared for the establishment of a Jewish national home."

To achieve this end, the instrument provided that: -

> "2. It will be necessary to encourage Jewish migration and secure their settlement in Palestine, provided it is done without prejudice to the existing rights of the non-Jewish inhabitants."[2]

Mandate period

Britain as a Mandatary Power did not hesitate to implement both the Balfour Declaration and the Mandate to achieve the interests of the Jews. Immigration of Jews to Palestine was encouraged as a matter of committee policy.

Before the Declaration and the Mandate, Palestine was a land on which the Palestinian Arabs and Jews lived harmoniously, albeit under the common exploitation first by the Turkish Empire and later on by Britain.

Under the Mandate, Britain facilitated the migration of Jews to Palestine in every possible way. The first step taken was to dispossess Palestinian Arabs by land purchase. Among the first estates to be purchased included Marj Ebn Amer, consisting of 13 villages from which 900 Palestinian Arab families were dispossessed. The Rothschild Organization (named after the Jewish millionaire) was set up and bought land worth £15 million. The Keren Kayemet organization, yet another one representing the organization of the Jewish National Fund, had by 1945 purchased estates worth £20 million.[3] No doubt the donations and subscriptions were substantial.

In addition, the Mandatary Power, Britain, enacted a law which deprived all landowners non-resident in Palestine of the right of tenure over their estates, with the result that Syrian citizens to which the Ottoman Empire had granted large areas of land in Palestine were compelled to sell them at low prices.[3] The land was later sold to Jews. State and waste lands were also sold to Jews.

Of more terror to the Palestinian Arabs were the murder gangs organized by Jews, like the Stern and the Irgun, comprising young Jews, who were given military training in the West. These gangs were responsible for the massacre of the Palestinians of Deir Yassin, which spread terror among Palestinian Arabs as a result of which they fled from Palestine.[3] Their land and other property were immediately confiscated by Jews. In the face of murders, massacres and terror, more than 250,000 Palestinian Arabs fled from Palestine while the influx of Jewish immigrants increased. It has been recorded that as many as 400,000 Jews migrated to Palestine during the Mandate period.[3] Even before 1947, the Mandate had been breached since the settlement of Jews did prejudice the Palestinian Arabs.

The subsequent Palestinian Arab resistance to the steps adopted to establish a Jewish national home was expressed in 1920 (Jerusalem), 1921 (Jaffa), 1929 (El Berak), and in the 1936 general uprisings.[3] By then the Palestinian Arabs were convinced that the Jews were bent on establishing a national home in Palestine. The Palestinian Arabs demanded an end to the Mandate and the establishment of a democratic Palestinian State in which both Arabs and Jews would coexist as citizens of one State. They also demanded that the immigration of Jews to Palestine be suspended.

Successful events threw the Palestinian mandate out of control. Jewish gangs attacked British installations demanding a right to establish their own State. Britain was all this time in favour of the Jewish demands. In 1947 Britain referred the problems to the United Nations.[4] The United Nations appointed a Special Committee on Palestine to study the problem, to prepare a report on it and make recommendations thereon. The Committee recommended the partition of Palestine into two States, one for the Jews and the other for the Arabs.[5] The Committee even submitted a partition plan in which 56 per cent of the land was to go to the Jews, who comprised 32 per cent of the then existing population, while 44 per cent of the land was to go to the Palestinian Arabs, who constituted 68 per cent of the population. In 1947, Palestine had 2 million people, of which two thirds were Arabs while the rest were Jews.[5] Naturally, the plan was rejected by the Palestinian Arabs, who rose to resist.

On 14 May 1948, Britain relinquished the Mandate and Palestine was handed over to the United Nations. On the same day the Jews declared independence and named their State Israel. Immediately, Palestinian Arabs, including their brothers in Syria, Egypt, Lebanon and Jordan, went to war against Israel. This was the beginning of the war between Palestinian Arabs and Arab countries on the one hand and Israel on the other - a war which has now been going on for 33 years (more than three decades) and has made millions of Palestinians refugees.

The United Nations stand on the dispute is not hard to find. On 11 May 1949, the General Assembly admitted Israel to its membership despite the fact that Israel had (still has) no defined boundaries, which is one of the prerequisites of statehood. With the material backing from the Western countries, Israel moved swiftly to capture three quarters of Palestinian land. By 1949, the Jews had captured more than 80 per cent of Palestine, leaving 20 per cent to the Palestinian Arabs, only to be captured in subsequent wars.[6]

From 1948 to 1953, about 740,000 Jews migrated to Palestine and over 370 new settlements were established, 350 of which were on previous Arab estates. Twelve Palestinian towns, including Jaffa, Haifa, Safd, El Lud, Ramallah, Tiberiade, Bissane, Samah, Magdal, Bir Sheba, Chefa Amir, plus 700 Palestinian Arab villages scattered throughout Palestine were confiscated.[7] Hence, more than 250,000 Palestinian Arabs became refugees.

The United Nations called upon Israel to admit those Palestinian refugees who wished to return to their homes and pay them compensation for damaged and/or lost property. Israel rejected the resolution and maintained that she could accept only 100,000 Palestinian Arab refugees. The rest could only be paid compensation on condition that they permanently remain outside Palestine.[8] By June 1950, about 960,000 Palestinians were refugees living in the desert wilderness and receiving United Nations assistance.[8]

In 1967, Israel attacked Syria and Egypt. Within seven days she had captured the following areas:

(a) The Old City of Jerusalem

(b) The western bank of the Jordan River

(c) The Gaza Strip

(d) The Sinai desert

(e) The Syrian Golan Heights

and established permanent Jewish settlements in those areas. Her justification this time was the need for "secure borders". So swift was (still is) the settlement scheme that by October 1973, there were 1,385,000 Palestinian Arabs against 2,365,000 Jews.[8] Territory-wise, Israel expanded in like manner. Originally, Israel covered an area of 20,250 square kilometres but by 1976 it had expanded to 88,000 square kilometres.[10]

As a result of the 1967 war, the growth of refugees was 45,000 per annum. By the end of June 1967, there were 1,344,576 registered Palestinian Arab refugees. On June 1977, statistics indicated that the number of registered refugees had increased to 1,706,000.[11] Today, the Palestinian Arabs are placed at 4 million, 1.7 million of which are refugees, half a million live in Palestine and the rest in the occupied territory.[12]

The Palestinian refugees

So serious were the sufferings of the Palestinian refugees that the General Assembly passed resolution 194 (III) of 11 December 1948 (which we have already discussed), calling upon Israel to permit the return of those refugees wishing to do so. In 1949 the United Nations established the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) to help Palestinian Arab refugees who had fled Palestine. The Agency began operating in 1950, assisting refugees in Lebanon, Syria, Jordan and the Gaza Strip. The Palestinian refugee is faced with many problems. First, there is a restriction on the assistance available to him because of the peculiar definition of a refugee adopted by the Agency. The Palestinian refugee is by express declaration not covered by the Convention[13] and Protocol[14] relating to the Status of Refugees of 1951 and 1967.

A refugee is defined by the Agency as "a person having lived in Palestine for at least two years at the time of the conflict of 1948 broke out, who has lost his home and means of subsistence as a result of that conflict". The criterion for a refugee was not that contained in article 1 of the Convention on the Status of Refugees mentioned above but whether one had first lived in Palestine for at least two years before the conflict of 1948, then whether as a result of the conflict one had lost his home and his means of subsistence. Besides, the definition does not extend to persons who fled from Palestine or neighbouring Arab countries as a result of subsequent wars.

Of the 1,344,576 registered refugees in 1976, only 860,951 of them qualified for United Nations assistance. However, in 1967 the General Assembly authorized the Agency to extend assistance to other persons who were displaced and needed assistance. It was expressedly declared to be an emergent and temporary measure. Today the Agency provides assistance to Palestinian refugees in the occupied West Bank and the Gaza Strip.[15]

The 1967 war rendered more than 500,000 Palestinian Arab refugees from Gaza, the West Bank and the Quneitra district of south-west Syria. Of these only 8,000 could return to their homes. Nor can a Palestinian refugee request assistance from the country of refuge as the provisions of the Convention and Protocol on the Status of Refugees do not apply to him. The country of refuge can only assist him discretionarily. It will breach no provision if it discriminates against him or even deports him. Although deportation to Palestine, where the refugee would likely be persecuted, discriminated against and harassed, could still be carried out even if the provisions of the above Convention and Protocol applied, the lack of the legal protection is by itself regrettable.

The Agency is not without problems. For the past decade, it has faced one financial crisis after another, to the extent of near collapse in 1975 and 1976. In 1971 the General Assembly set up a nine-nation working group on financing the Agency. The group was not successful. By 1977 the financial shortage was so acute that the General Assembly called upon Governments, as a matter of urgency, to donate or grant funds to the Agency. This call has to date received slow response. The Agency is still suffering from inadequate funds.

Attack on refugee camps

The Palestinian Arab refugee's existence is not without disturbance, threat to his property and to his life. His camp is constantly a target of Israeli attacks. The casualties have risen since 1948, to date many of the victims being mostly women and children. For instance, in 1971, Israel destroyed 7,729 rooms in three refugee camps in the Gaza Strip and displaced 15,855 persons, 1,988 of whom could not be sheltered.[16] In 1972, Israel attacked refugee camps, destroying the Agency installations and refugee shelters in camps set up as a result of Israel's air raid in Lebanon.

Initially Palestinian refugees were not allowed to build permanent homes but tents. Tents are however means for temporary shelter. Since the Palestinian refugees have lived in tents for more than three decades, the Agency has striven to replace them by permanent one-room shelters.[17] The refugee still falls victim to the extremities of the desert climate because his tent is not adequately protective. He becomes vulnerable to cold, heat and contagious diseases.

Jordan has since 1949 opposed the Palestinian cause. To prevent Palestinians from operating against Israel, Jordan used police vigils and electrified wire fences around the refugee camps. These are but a few of the problems that a Palestinian refugee faces.

Arab countries

The Arab countries, rich from oil sales, could go a long way towards alleviating the financial problems of the Agency. Instead, one Arab country fights another, either actively or passively. The swiftness with which Israel captured and occupied Palestine and later on parts of Syria, Jordan, Egypt and Lebanon reflected (and still reflects) the disunity among and between Arab countries. Evidence points to the fact that capitalist countries, particularly the United States, control most of these countries economically and politically. Iran is quite a clear case. As for Kuwait, it is said that by 1972, American-financed capital interests alone, in oil, amounted to 50 per cent, while in Saudi Arabia they were 100 per cent and in Iraq 25 per cent.[18/] The capitalist countries also determine Arab countries' attitudes towards the Palestinians. Aid, loans or sales of necessary manufactured goods to an Arab country (the same applies to other countries), depends on that country's stand on the Palestinian problem. Besides, the recent attacks by Israel of neighbouring Arab countries in "hot pursuit" of Palestinian guerrillas are intended to terrorize these countries and discourage them from supporting the Palestinian cause.

Perhaps the Camp David accord should serve as the best example of the Arab countries' weakness. The Camp David agreement that was signed between Egypt and Israel under the championship of America had two main pseudo-concessions. The agreement purported to accord self-government to Palestinians in the occupied territory in a five-year transitional period, and withdrawal by Israel from part of the Sinai.[19/] No reparations, no right of return of Palestinians to Palestine and no right to establish a Palestinian State were recognized. The agreement also addressed itself only to the Palestinians living in the West Bank and the Gaza Strip areas. Instead of removing existing settlements in the occupied territory, Israel is setting up new ones. The April Palestinian bulletin had this to comment on Israel's recent moves:

> "Israeli authorities confiscated lands belonging to more than one million inhabitants in the West Bank. More than one hundred new settlements have been established in the West Bank, Gaza Strip and the Golan Heights. In these very days new settlements are established under the auspices of the "peace treaty" with Egypt. Elon Moreh and existing ones are considerably enlarged by seizures and confiscation of Arab land. Consistent with this plan, there is a decision to establish new administrative units for all the settlements. Three such units were recently established under pure Israel jurisdiction which means practically to annex to Israel the territories on which the settlements are situated. One third of the land of the West Bank has been confiscated up to this time while there are new orders of confiscation waiting to be executed presently ...".[20/]

In view of the foregoing, the autonomy enshrined in the Camp David agreement is illusory. Egypt, in a hurry to find a short-cut solution to the Middle East problem without the PLO, ended up having solved nothing substantial. The attitude of the Egyptian Government towards Palestinian Arabs and their representative, the PLO, can best be depicted in an interview of President Anwar Sadat by Barbara Walters of ABC Television:

> "'The PLO considers itself the legitimate representatives of the Palestinians. Are you of the same view?' she asked.
>
> "'In my proposals I have always mentioned the Palestinian people. This means the entire Palestinian people. All the Palestinians. Under the treaty or document we signed yesterday, we shall again meet together. Egypt, Jordan and Israel.' Sadat replied.
>
> "'And the PLO?'
>
> "'Egypt, Jordan, Israel as well as representatives of the inhabitants of the West Bank of Jordan and Gaza Strip, it is they who will decide.'
>
> "'And so it is goodbye to PLO?'
>
> "'I beg your pardon?'
>
> "'All right, I shan't repeat what I have just said.'
>
> "'I'm hard of hearing sometimes!'"

Obviously, Egypt does not recognize the right of the Palestinian people, those in the occupied territory, in exile and in Palestine to self-determination. The agreement was eventually not even decided by the Palestinians in the West Bank and the Gaza Strip but by Israel, with Egyptian support.

Conclusion

What is strikingly particular about the immigrant Jews in Palestine is the fact that they are economically rich, educated and have a strong military training. The national home for the Jews becomes a right of only rich, young educated Jews. Relatively poor Jews still live in Europe. The immigrant Jews treat the local Jews differently since they both live under different standards.

The migration of Jews in Europe and from Palestine is not different from the movement of other peoples the world over. If these people were to be allowed to trace their historical origins and claim rights over these places, the world would be in a fit of chaos. The Ngoni's of Tanzania would demand some parts of Zululand, the American Negroes, parts of the African continent, the Aborigines of Australia, the whole of Australia, the Red Indians of the American continent, a large part of the United States and so forth. There would be no end to legitimate claims to historical original areas. For this purpose, the Jewish claims over Palestine are without acceptable justification.

The Palestinian struggle entered a decisive stage with the formation in 1964, of the PLO, which, through its efforts, has obtained the international community's recognition of the Palestinians' right to self-determination.

It takes very little to be a refugee but it means much what type of a refugee one becomes. The Cuban refugee finds no problem of assistance and settlement although from their pictures he does not represent the peasants, which means therefore that he can easily be employed in his country of refuge. The Haitian refugee settles with much difficulty and legal wrangle continues to determine whether he qualifies to be a refugee or just an illegal immigrant. The Kampuchean refugee and the Vietnamese boat people find refuge after ordeals at sea.

The plight of the boat people is too well known to be repeated here, but they were all resettled in many countries, mostly Western countries.

The Palestinian refugee faces more problem because of the factors that determine whether he is a refugee or not and because of the financial shortage that the Agency responsible is experiencing.

What is significant to note is the differential treatment of refugees depending on the nature of the refugees (professionals easily get employed), the cause of the refugee problem and the receiving country's stand on that problem. The provisions of the Convention and Protocol relating to the Status of Refugees of 1951 and 1967, article 1, which were and are intended to apply generally to all persons are far from being realized. Hence the different national definitions of a refugee.

Notes

1/ Information Department, Cairo, 1962, The Problems of the Palestinian Refugees, p. 12.

2/ Ibid., pp. 13 and 14.

3/ Ibid., p. 27.

4/ Ibid., p. 18.

5/ United Nations, Everyone's United Nations: a Handbook on the United Nations, its Structures and Activities (1979 edition), p. 78.

6/ J. L. Kanywanyi, "The struggle against imperialism" (short weekly talks on Radio Tanzania, External Service), July 1975 to March 1976, p. 236.

7/ Information Department, Cairo, 1962, The Problems of the Palestinian Refugees, p. 22.

8/ J. L. Kanywanyi, op.cit., p. 238.

9/ Ibid., p. 239.

10/ Ibid., p. 259.

11/ Ibid., p. 236.

12/ Interview with PLO officials at Dar es Salaam office, June 1980.

13/ United Nations, Treaty Series, vol. 189, No. 2545, p. 50.

14/ Ibid., vol. 606, No. 8791, p. 267.

15/ United Nations, Everyone's United Nations: a Handbook on the United Nations, its Structures and Activities (1979) edition, p. 84.

16/ Ibid., p. 85.

17/ Ibid., p. 86.

18/ Kanywanyi, op.cit., p. 243.

19/ New Times, p. 28, (a Soviet weekly of world affairs).

20/ Palestine Information Bulletin, vol. 5, No. 7 (16-30 April 1980), pp. 18-19.

E. THE IMPLEMENTATION OF UNITED NATIONS RESOLUTIONS ON PALESTINE

Henry Cattan
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In any attempt to deal with the Palestine problem, it is essential to bear in mind the political and legal status which the Palestinians enjoyed in the past prior to its rise. This is necessary because those who are concerned in finding a remedy to the situation seem, or pretend, to ignore that the Palestinians are not a people just emerging from barbarism and that, on the contrary, they possessed civil, political and sovereign rights in their country until the creation of the State of Israel which usurped their homeland and uprooted the majority of the population.

At the time that Palestine was part of Turkey, the Palestinians enjoyed as Turkish citizens full civil and political rights. The Turkish Constitution made no distinction between Arab and Turk. They participated in the administration of the country, shared sovereignty with the Turks over all territories of the Ottoman Empire, regardless of whether such territories were Turkish or Arab provinces. Upon the detachment of the Arab provinces from Turkey at the end of the First World War, Palestine became a separate political and international entity and the Palestinians acquired alone sovereignty over its territory. In 1919, like other Arab peoples detached from Turkey, the Palestinians were recognized as an "independent nation" by Article 22 of the Covenant of the League of Nations, subject to rendering them administrative advice and assistance by a Mandatary until they are able to stand alone (see appendix I below). The Mandate which was granted in 1922 by the League of Nations to Great Britain to administer Palestine did not divest the Palestinians of their sovereignty. This is recognized by almost all jurists who emphasize that neither the League of Nations nor Great Britain acquired, or could have acquired, sovereignty over Palestine. Sovereignty remained vested in the inhabitants. Although subject to a mandate, Palestine became an independent State which possessed a separate jurisdictional and international personality quite distinct from the personality of the British Government as Mandatary. It became a party in its own right to treaties and conventions with the British Government and third States. Hence, from the time that Palestine was detached from Turkey in 1917 until the end of the Mandate in 1948, it was under international law, an independent State and its people enjoyed sovereignty over its territory. This is the basic premise to be kept in mind in order to appreciate the validity or otherwise of subsequent acts and developments, and also to judge the validity and wisdom or otherwise of United Nations resolutions which have sought to resolve the Palestine problem.

Thus, the Balfour Declaration by which the British Government, a complete stranger to the country, promised on 2 November 1917 a national home in Palestine for the Jews, possessed no juridical value and could not affect or impair the rights and sovereignty of the people of Palestine.

Likewise, the giving to Great Britain in the League of Nations Mandate of "full powers of legislation and administration" clearly went beyond "the rendering of administrative advice and assistance" envisaged in Article 22 of the Covenant. Moreover, the provisions in the Mandate which authorized Great Britain to give effect to the Balfour Declaration and to facilitate Jewish immigration into Palestine made of the Mandate a vehicle for the establishment of a Jewish State in Palestine in clear violation of the legitimate rights of the inhabitants. Thus the Mandate was an abuse of power and a distortion of the concept of the mandate system which was devised to give effect to the principle laid down in Article 22 of the Covenant of the League that the well-being and development of the peoples detached from Turkey "form a sacred trust of civilization".

Again, General Assembly resolution 181 (II) of 29 November 1947, which sought to resolve the Palestine problem by carving out 57 per cent of the area of Palestine for the creation by the Jewish immigrants of a Jewish State was an excess of jurisdiction which took advantage of a weak people and violated its sovereignty over its country.

So again, Security Council resolution 242 (1967) of 22 November 1967, which was proposed as the formula for achieving a just and lasting peace in the Middle East and has since become the target of diplomatic efforts to settle the Arab-Israeli conflict on its basis, was nothing but an attempt to achieve a Pax Hebraica since its effect was to dismiss the question of Palestine as a mere refugee problem and to sanction Israel's usurpation of 80 per cent of the territory of Palestine (this being the area it seized in 1948 and 1949), leaving to the Palestinians the West Bank and Gaza, i.e., 20 per cent of their country.

It is clear then that the question of Palestine will not be resolved by an indiscriminate implementation of United Nations resolutions without regard to the antecedent and inalienable rights possessed by the people of Palestine. Some of those resolutions have violated, others have overlooked those rights. What is even more disturbing is that United Nations resolutions have followed a process of a gradual whittling down of the fundamental and inalienable rights of the people of Palestine. Thus resolution 181 (II) reduced the rights of the Palestinians to only 43 per cent of the territory of their country. It was followed 20 years later by resolution 242 (1967), which further cut down the area to be left to the Palestinians to 20 per cent, that is a mere morsel of their ancestral homeland. These considerations explain why the Palestinians do not entertain feelings of eternal gratitude to the three framers of the Camp David accords of 1978 whose "peace" formula further whittles down Palestinian rights, if it does not entirely abrogate them, since it involves the continuation of Israeli occupation of this 20 per cent, sweetened by a generous grant to the inhabitants of the blessing of "autonomy" - in municipal affairs - under Israeli overlordship.

Accordingly, it is imperative to extract from United Nations resolutions those principles and provisions as are consistent with Palestinian inalienable rights and are compatible with "the principles of justice and international law" laid down in Article 1 of the Charter of the United Nations. In application of this criterion, one could consider that the implementation of the territorial provisions of General Assembly resolution 181 (II) which earmarked 43 per cent of the area of Palestine for the territory of the Arab State and of General Assembly resolution 194 (III) of 11 December 1948 which called for the repatriation of the Palestine refugees, together with other resolutions which emphasized the inalienable rights of the Palestinians provides, under present circumstances, a general framework for a political solution of the Palestine problem.

In this connection, it may be necessary to remark that the resolutions of the United Nations on Palestine did not lapse by reason of their non-implementation or even their violation. Were it otherwise, it would be easy to defeat any resolution simply by ignoring it. It is clear then that General Assembly resolutions 181 (II), 194 (III), and other relevant resolutions are all valid and enforceable, despite Israel ignoring or violating them.

Foremost to be implemented are the territorial provisions of resolution 181 (II). The effective implementation of its territorial provisions entails as a necessary consequence Israel's obligation to evacuate all territories which it seized in excess of the geographical boundaries laid down for the Jewish State by the resolution regardless of whether such territories were seized in 1948, 1949 or 1967, and regardless of whether they were annexed or not. These territories comprise Jerusalem, old and new, the West Bank and Gaza, the central area of Palestine west of Jerusalem, western Galilee, the towns of Jaffa, Nablus, Gaza, Acre, Bethlehem, Ramallah, Nazareth, Lydda, Ramleh, Beersheba, Tulkarm, Jenin and several hundred villages.

Israel possesses no right to resist the implementation of resolution 181 (II) as it has acquired no right or title to the territories comprised within the borders of the Arab State and the corpus separatum of Jerusalem, as defined by the resolution, which it seized in 1948, 1949 or 1967. This view rests upon three considerations.

First, Israel owes its birth and existence to resolution 181 (II). By resisting the implementation of the resolution, it would, in fact, be denying it origin and tearing up its birth certificate. Furthermore, Israel formally accepted the resolution and its acceptance debarred it from claiming any territory beyond what was fixed as the territory of the Jewish State. In fact, not only was resolution 181 (II) accepted by Israel, it was engineered by the Zionist Jews, the founders of Israel, who in 1947 went all out and resorted to all kinds of pressure to secure its adoption by the General Assembly. The establishment of the State of Israel was proclaimed on its basis and Israel's first act was to address a cable (S/747) on 15 May 1948 to the Secretary-General of the United Nations, declaring its readiness to implement resolution 181 (II). The fact that the Arab States and the Palestinians rejected the partition of Palestine, which was envisaged by the resolution, did not confer on Israel any right to appropriate the territory assigned to the Arab State or to appropriate the corpus separatum of Jerusalem.

Secondly, Israel has acquired no title to the territories which it seized in excess of resolution 181 (II). The fact that wars were fought in 1948 and 1967 between the Arab States and Israel, during which the latter seized a larger area of Palestine than was earmarked for the Jewish State by the resolution, does not give it any right over the territories seized, nor take away the rights of the Palestinians. The principle of the inadmissibility of the acquisition of territory by war is laid down both by international law and United Nations resolutions and applies equally to territories seized in 1948 and 1949 in the same way and to the same extent as it applies to territories seized in 1967. It seems necessary to emphasize this point because United Nations resolutions which were adopted since 1967, starting with resolution 242 (1967), have called for Israel's evacuation of the territories seized during that year and have overlooked the territories it seized in 1948 and 1949 in excess of the boundaries of the Jewish State, and this despite the fact that the legal position is identical in the two cases. Under international law, Israel has the status of belligerent occupier of all these territories and it has not acquired, nor could it acquire, any title thereto. The fact that in one case the seizure is earlier in date than in the other is immaterial since lapse of time is no defence to a claim to territory seized by force whose owner has not acquiesced to its usurpation.

Hence, to limit Israel's obligation to withdraw from territories that were seized in 1967 (as resolution 242 (1967) purports to do) is clearly wrong since this would mean that aggression is disavowed in one part, and is sanctioned or overlooked in another part.

Thirdly, resolution 181 (II) was not abrogated or annulled by the wars of 1948 and 1967 between Israel and the Arab States. The war of 1948 prevented its implementation, but did not affect or impair its validity. In so far as the *corpus separatum* of Jerusalem is concerned, the General Assembly has made it clear that its military occupation by Israel and Jordan in 1948 did not affect the operation or binding character of resolution 181 (II). In General Assembly resolutions 194 (III) of 11 December 1948 and 303 (IV) of 9 December 1949, it reaffirmed the provision of resolution 181 (II) which established a permanent international regime for the city of Jerusalem. It is significant that these two resolutions were adopted *after* Israel's seizure of modern Jerusalem and Jordan's seizure of the Old City. Moreover, several resolutions adopted since 1967 by the General Assembly and the Security Council have declared null and void all measures taken by Israel purporting to change the legal status of Jerusalem. Although the General Assembly has not adopted any resolution similar to resolutions 194 (III) and 303 (IV) with respect to the territory of the Arab State as defined in resolution 181 (II), yet the continued validity of resolution 181 (II) regarding Jerusalem, despite its military occupation, must apply equally to the territory of the Arab State seized by Israel. The title of the Palestinians, therefore, to such territory remains unaffected by the hostilities or by their outcome. The same consideration applies to the territories seized by Israel in 1967. In other words, the implementation of the territorial provisions of resolution 181 (II) is not affected by the fighting in 1948 or 1967.

In addition to the above considerations, Israel is specially obligated, more than any other State, to respect and to implement resolution 181 (II) without question. This special obligation arises from a circumstance that is particular to Israel and rests upon the formal assurances it gave to the United Nations in 1949 as a condition of its admission to membership in the Organization. Before approving Israel's application for admission, the General Assembly wished to ascertain its attitude regarding the implementation of General Assembly resolutions, particularly that the manner of its emergence and its actions relative to territory, to Jerusalem and to the Palestinians were not in line with United Nations resolutions. To this end, the General Assembly closely interrogated Israel's representative during several hearings about the implementation of resolution 181 (II), the repatriation of the Palestine refugees under resolution 194 (III) and the international status of Jerusalem.[1] Israel then gave all necessary assurances for the implementation of General Assembly resolutions, in general, and of resolutions 181 (II) and 194 (III), in particular. The General Assembly took formal note of the "declarations and explanations" of Israel in its resolution 273 (III) of 11 May 1949, in which it decided to admit it to membership in the United Nations (see appendix II below).

One should observe that resolution 181 (II) is enforceable not only as a recommendation of the General Assembly which ordinarily does not possess *per se* executory force, but also as a resolution which has been endorsed by the action taken by the Security Council in 1948 with a view to its implementation. In adopting resolution 181 (II), the General Assembly had requested the Security Council to take the necessary measures for its implementation and also to determine as a threat to the peace, in accordance with Article 39 of the Charter, any attempt to alter by force the settlement it envisaged. On 5 March 1948 the Security Council adopted resolution 42 (1948), which called on the permanent Members of the Council to make recommendations regarding the guidance and instructions which the Council might usefully give to the Palestine Commission "with a view to implementing the resolutions of the General Assembly". Then, following the outbreak of hostilities between Israel and the Arab States, the Security Council adopted on 15 July 1948 resolution 54 (1948) which determined that the situation in Palestine constitutes a threat to the peace within the meaning of Article 39 of the Charter.

A query is likely to be made as to whether it would be realistic to expect the United Nations to succeed in implementing resolution 181 (II) in a manner that would secure Israel's withdrawal from territories seized in 1948 and 1949 in excess of the boundaries prescribed for the Jewish State when it has utterly failed, despite the adoption of numerous resolutions, in securing its withdrawal from territories seized in 1967. The answer is that if the matter is to be left to Israel's goodwill and pleasure, its withdrawal would be equally unrealistic in either case. If, on the other hand, withdrawal is to be achieved by coercion, then the extent of the withdrawal is immaterial since the degree of coercion required will be exactly the same whether for the territories seized in 1948 or in 1967 because for anyone who knows Israel, it is quite certain that it will resist with equal force any kind of withdrawal, big or small.

Resolution 181 (II) was rejected in 1947 by the Palestinians and the Arab States. It is necessary, therefore, to discuss possible objections to its implementation on their part. These objections are two: one political, the other legal.

Since its adoption, resolution 181 (II) has been anathema to the Palestinians and the Arabs generally by reason of its recommendation for the partition of Palestine and the creation of a Jewish State on 57 per cent of its territory. The situation has, of course, considerably deteriorated since then as a result of Israel's seizure of more territory and its displacement of two thirds of the population.

In present circumstances, however, the objection to resolution 181 (II) loses some of its heat because the implementation of its territorial provisions would reduce the much greater hardships that have befallen the Palestinians since its adoption. The implementation of the resolution will achieve three important results.

First, it would enable two thirds of the Palestinian refugees to return to their homes, villages and towns in the evacuated territories and would thus substantially reduce the dimensions of the Palestine refugee problem which has now reached, as a result of natural increase, the staggering figure of 2.5 million refugees. Such repatriation would pose no serious problems, except rehabilitation, since it would not depend on Israel's will and pleasure. For this reason, it is judicious, if not imperative, that evacuation should precede repatriation. As to the refugees originating from the territory reserved for the Jewish State by resolution 181 (II), their repatriation would be achieved by implementation, under United Nations supervision, of resolution 194 (III).

Secondly, implementation of the resolution would entail the restoration to the Palestinians of a large segment of their country and thus enable them to establish a Palestinian State in the territory destined for the Arab State by the resolution. It goes without saying that the establishment of a Palestinian State does not need Israel's consent, which it arrogantly now claims to withhold in advance, even for a Palestinian State in the West Bank and Gaza. Neither does the establishment of a Palestinian State require any authorization from the Security Council. It is evident that the establishment of a Palestinian State would not amount to the creation of a new State but would be simply the continuation or revival of the existence of the State of Palestine, which came into existence after the detachment of Palestine from Turkey at the end of the First World War.

Thirdly, implementation of the resolution would free one third of the Palestinians from Israeli domination and repression.

In terms of practical policy, therefore, a return to the territorial position envisaged by resolution 181 (II) would definitely be preferable to the present situation, which is of far greater injustice and inequity.

The legal objection to resolution 181 (II) is founded upon the incompetence of the General Assembly to partition Palestine and to earmark part of its territory for the creation of a Jewish State. It is clear that in adopting resolution 181 (II) the General Assembly sought to do two things which it possessed absolutely no power to do. On the one hand, it purported to divest the Palestinians of their sovereignty over part of their homeland, and on the one hand, it purported to grant to the Jews - most of whom were alien immigrants and even foreign nationals - the right to establish a State in the territory of Palestine. Most jurists doubt the competence of the General Assembly to carve out of the territory of Palestine an area for the creation of a Jewish State[2] or to abolish the existing rights of the Palestinians.[3] The territory of Palestine was not terra nullius to be given away by the United Nations to anyone. In recommending the creation of a Jewish State in 1947, the action of the United Nations was on the same footing from a juridical standpoint as that of the British Government in promising to the Zionists the establishment in Palestine of a national home for the Jews. Neither possessed any power, dominion or sovereignty in Palestine enabling it to dispose of the territory of Palestine and their actions lacked any legal foundation.

The incompetence of the General Assembly to adopt resolution 181 (II) should not, however, prevent the implementation of its territorial provisions since it would strip Israel of the fruits of its aggressions and restore to the people of Palestine an important part of their country. Moreover, the restoration to the Palestinians of the territory of Palestine which was not designated by the United Nations in 1947 to form part of the Jewish State, but was specifically destined for the establishment of the Arab State, should not be considered in the strict sense an implementation of resolution 181 (II). Such restoration should be viewed rather as a recognition of their antecedent and imprescriptible right of sovereignty over Palestine and also an application of the principle that Israel cannot retain possession of, or acquire title to, any land which it seized in excess of the area designated for the Jewish State by the United Nations. In the light of these considerations, the implementation of the territorial provisions of resolution 181 (II) and the consequent handing over to the Palestinians of the area designated for the Arab State would not be translative of rights in their favour, but would be declaratory of their existing right of sovereignty.

The criticism may be made that while the implementation of the territorial provisions of the resolution effaces Israel's usurpation of territory seized in excess of the boundaries it fixed for the Jewish State, it would still leave in Israel's hands 57 per cent of the territory of Palestine. Such criticism, however, is attenuated by the fact that Palestinian sovereignty remains over such territory, since neither a United Nations resolution, nor Israeli occupation or annexation, can divest the Palestinians of their sovereignty. The right of sovereignty is inalienable and imprescriptible and survives aggression, occupation and annexation. The position of Palestine is legally analogous to the situation of Poland, whose sovereignty survived foreign occupation and annexation during the interregnum that lasted from 1795 to 1919, and to the position of Ethiopia, whose sovereignty survived Italy's occupation and annexation in 1936. In any event, the issue of the invalidity of the disposition of 57 per cent of the territory of Palestine which resolution 181 (II) purported to make in favour of a Jewish State can at all times be submitted to the International Court of Justice for its opinion, a course which, under improper pressures, the General Assembly declined to follow in 1947.[4]

The evacuation of territories seized by Israel in excess of resolution 181 (II) requires not only withdrawal of its military forces and civil administration, but also of Israeli settlers. Those Jews who were habitually resident of the evacuated territories on 29 November 1947 should be allowed to remain. Others would not be "thrown to the sea" as hysterical Zionist propaganda would claim, but would be evacuated to Israeli territory, or if they so elect, to their country of origin. The Egyptian-Israeli Peace Treaty of 26 March 1969 (article 1, paragraph 2) has set the precedent of the evacuation of all Israeli settlers who were brought to occupied territory.

In application of accepted principles of international law and of United Nations resolutions, all measures taken by Israel, including confiscation or expropriation of Arab property, in occupied territories would be rescinded and all such property restored to its lawful owners.

The implementation of resolution 181 (II) will necessitate the establishment by the United Nations of an international authority similar to a certain extent to the Palestine Commission which was set up by the resolution in 1947 to implement its terms. Such an international authority would be charged with supervision of the Israeli withdrawal and the temporary administration of evacuated territories. Upon completion of the withdrawal, it would hand over to the Palestine Liberation Organization (PLO), as the representative of the people of Palestine, the territories that were destined by the resolution for the Arab State, and to the Trusteeship Council, the corpus separatum of Jerusalem.

In addition, the United Nations would have to consider Israel's obligation to make reparations to the Palestinians for loss and damage caused during the occupation of Arab territory. Resolution 194 (III) provided for the payment of compensation for the property of refugees choosing not to return and for loss or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible. This provision, however, cannot be considered to be the final word on the subject because at the date of its adoption the tragedy was just beginning to unfold. Since then the damage has reached the proportions of a catastrophe: all the immovable property owned by the million refugees displaced in 1948 was confiscated, all their movables and assets found in their homes, shops or businesses were plundered, 385 Arab villages were destroyed,[5/] and in many instances the properties of residents were confiscated or destroyed. The reparations payable would need to be determined by a Commission appointed by the United Nations.

Until now the United Nations has made no attempt to implement its resolutions on Palestine. It relied without success on mediation and conciliation. The Palestine Mediator, Count Folke Bernadotte, was assassinated on 17 July 1948 by Jewish terrorists in Jerusalem. The Conciliation Commission, which was appointed to assume his functions, has not made the slightest progress in its mission despite the lapse of 32 years. During all this period, the United Nations has been adopting, affirming and reaffirming resolutions without any result.

In 1975 the General Assembly established the Committee on the Exercise of the Inalienable Rights of the Palestinian People to recommend a programme of implementation of the inalienable rights of the Palestinians which were recognized by General Assembly resolution 3236 (XXIX) of 22 November 1974. The Committee recommended a programme of action[6/] which can be summarized as follows:

1. The repatriation of the Palestine refugees in two phases, first, the refugees of 1967, and second, the refugees displaced between 1948 and 1967;

2. The withdrawal of Israeli forces from the areas occupied in 1967 and their handing over to the PLO;

3. The establishment of an independent Palestinian entity in the evacuated areas;

4. The making of further arrangements for the full implementation of the inalienable rights of the people of Palestine. The tenor of this particular recommendation (para. 72) is as follows:

> "(g) As soon as the independent Palestinian entity has been established, the United Nations, in cooperation with the States directly involved and the Palestinian entity, should, taking into account General Assembly resolution 3375 (XXX), make further arrangements for the full implementation of the inalienable rights of the Palestinian people, the resolution of outstanding problems and the establishment of a just and lasting peace in the region, in accordance with all relevant United Nations resolutions".

Obviously, the suggested programme of action falls short of an implementation of the territorial provisions of resolution 181 (II). If, as is clear, the Palestinians possess indubitably a right supported by international law and United Nations resolutions to recover the territory assigned to them by resolution 181 (II), then the recommendations of the Committee would have gained in being more precise and clear-cut.

The Committee's recommendations were endorsed by the General Assembly and were transmitted to the Security Council to consider them and take a decision thereon. No action, however was taken thereon by the Security Council.

In its resolution 34/65 A of 29 November 1979, the General Assembly expressed regret and concern that the Committee's recommendations, though endorsed by it in several resolutions, have not been implemented and once again urged the Security Council to consider them and take a decision thereon. The General Assembly requested the Committee, in the event of the Security Council failing to consider or to take a decision on those recommendations by 31 March 1980, to consider the situation and to make the suggestions it deemed appropriate.

The Charter of the United Nations contains a wide range of measures of coercion to secure the enforcement of its resolutions, but no recourse has been made until now to such measures. On a few occasions, the Security Council issued warnings that it would take action under the Charter. Thus in its resolution 54 (1948) of 15 July 1948 the Security Council declared that failure of the Governments concerned in the fighting in Palestine to comply with its order to desist from military action would lead to the taking of such further action under Chapter VII of the Charter as may be decided by the Council. So again, in various resolutions in which it condemned Israel's armed attacks on its neighbours, the Security Council warned that in case of repetition, it would have to consider further and more effective steps as envisaged by the Charter.[7] Notwithstanding that Israel paid no heed to these warnings, but repeated its attacks and aggressions, the Security Council took no coercive measures against it to force it into the path of legality.

The nearest approach to the exercise of coercion is to be found in the recommendation made by the General Assembly to Member States in some of its resolutions to withhold military or economic aid to Israel so long as it continues to occupy Arab territories and to deny the inalienable rights of the Palestinian people.[8] And on 1 March 1980, the Security Council for the first time also decided, in resolution 465 (1980) to call on all States "not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories". This kind of economic sanction, however, has not proved to be efficacious because the principal purveyor of arms and finance to Israel, namely the United States Government, is not prepared to discontinue economic and military assistance to its protégé. In a statement made on 23 August 1977, President Jimmy Carter ruled out the withholding of economic or military aid to exert pressure on Israel in order to secure its withdrawal from territories occupied in 1967.

It is obvious that the question of Palestine cannot be resolved by mediation or conciliation or by the mere adoption of resolutions. Israel's attitude towards United Nations resolutions has invariably been to reject and flout them, often in insolent and arrogant terms. On the other hand, appeals, censures, deplorations and condemnations are completely ineffective to ensure implementation of United Nations resolutions. Only coercion will succeed. At the time of the Suez aggression, Israel flouted General Assembly resolutions that called for its withdrawal from the territories it had occupied. Thereupon President Dwight D. Eisenhower declared: "The United Nations has no choice but to exert pressure upon Israel to comply with the withdrawal resolutions." In fact, pressure then succeeded. Dr. John H. Davis, for several years Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), also came to the conclusion that "in the end, one must even be prepared to impose corrective measures on Israel against her will".[9]

Resort to coercion is necessary and unavoidable if United Nations resolutions on Palestine are to be implemented. Unlike international law which lacks means for the enforcement of its rules, save war and reprisals, the Charter of the United Nations, following the Covenant of the League of Nations, laid down a system of enforcement measures, some of which involve the use of force, while others do not.

In accordance with Article 24 of the Charter, members of the United Nations have conferred on the Security Council primary responsibility for the maintenance of international peace and security. Before deciding what measures should be taken, whether involving the use of armed force or not, the Security Council must determine the existence of a threat to the peace, breach of the peace, or act of aggression (Article 39). In regard to Palestine, such determination was made by the Security Council in resolution 54 (1948) of 15 July 1948 which, as previously mentioned, was adopted following the first outbreak of hostilities between Israel and the Arab States. The resolution stated that the situation in Palestine constituted a threat to the peace within the meaning of Article 39 of the Charter. This resolution was invoked in several subsequent resolutions.[10] Paragraph 8 of the resolution provided that the truce therein ordered should remain in force "until a peaceful adjustment of the future situation in Palestine is reached". This desirable state of affairs has not yet been reached because since then, more wars were fought, more territories were seized and more refugees displaced. It follows that resolution 54 (1948) is still operative and no fresh determination of the existence of a threat or breach of the peace is required before the Security Council can take action under Articles 41 and 42 of the Charter to enforce United Nations resolutions on Palestine.

The basic obstacle to the taking of enforcement measures by the Security Council lies in the attitude of the United States Government, which is opposed to the resort by the United Nations to sanctions or to any form of coercion against Israel. This was not always the case, as we have seen, because Israel's withdrawal in 1956 from the territories which it then occupied was secured only through United States coercion and Soviet threats.

Since 1967, however, the United States attitude towards Israeli acts and aggressions has radically changed to an extent that at times it seems to imply acquiescence. Thus in that year the United States Government prevented

Israel's condemnation by the General Assembly as an aggressor although the fact of aggression was patent and obvious. Moreover, it prevented the adoption of a resolution calling for Israel's immediate and unconditional withdrawal from the territories it then occupied. One can even say that Israel now enjoys almost unqualified political support from the United States, and can also count on the United States veto in the Security Council to defeat the adoption of resolutions of which it disapproves. Thus on 10 September 1972 and again on 8 December 1975, the United States vetoed Israel's condemnation by the Security Council for murderous raids on Palestinian refugee camps in Lebanon and the Syrian Arab Republic which took a heavy toll of innocent lives. Again, on 25 March 1976, it vetoed a draft resolution of the Security Council which censured Israeli actions in Jerusalem and the occupied territories. On two occasions it vetoed Security Council draft resolutions which attempted to lay down a framework for a settlement which did not have Israeli approval. Thus on 26 January 1976 a Security Council draft resolution which reaffirmed the principle of the inadmissibility of acquisition of territory by force and the inalienable national rights of the Palestinians, including their right to return and establish an independent State, and called upon Israel to withdraw from territories occupied in 1967, was defeated by the veto of the United States notwithstanding that it had received the approval of the required majority of nine members. Again on 30 April 1980, a draft resolution of the Security Council which affirmed the principle that the people of Palestine should be enabled to exercise its inalienable right of self-determination, including the right to establish an independent State, was defeated by the veto of the United States although it had the approval of 10 members.

The explanations given by the United States for its vetoes, including the standard excuse invoked that the resolution "is not balanced", are not convincing. The real reason is that since 1975 the United States veto in favour of Israel is not exercised as a result of a fair appreciation of the merits of the matter which is before the Council, but is cast in execution of a commitment which the United States Government has assumed to align its attitude at the Security Council upon Israel's position. This amazing subservience of a super-Power to Israeli wishes was achieved by Henry Kissinger in the undertakings contained in a Memorandum of Agreement which he negotiated between the United States Government and Israel in connection with the Egyptian-Israeli Agreement of 1 September 1975. Article 8 of the Memorandum of Agreement stated:

> "8. The United States Government will vote against any Security Council resolution which in its judgement affects or alters adversely the agreement."

In a Memorandum of Agreement concluded on the same date between the United States Government and Israel concerning the Geneva Peace Conference, it was also stated:

> "4. The United States will oppose and, if necessary, vote against any initiative in the Security Council to alter adversely the terms of reference of the Geneva Conference or to change resolutions 242 and 338 in ways which are incompatible with their original purpose."

The subjection of the United States vote at the United Nations to Israel's pleasure also found expression in the commitment which the United States Government gave to Israel in a Memorandum of Agreement dated 26 March 1979 concluded between the parties in connection with the Egyptian-Israel Peace Treaty of the same date. Article 5 of the Memorandum states:

> "5. The United States will oppose and, if necessary, vote against any action or resolution in the United Nations which in its judgement adversely affects the Treaty of Peace."

One can, therefore, expect that any decision by the Security Council for the implementation of United Nations resolutions on Palestine, for recourse to coercive measures against Israel, would be defeated by a veto of the United States. Although the United States Government was the chief promoter in 1947 of resolution 181 (II), to the extent that President Truman exerted undue and improper pressures on several States to secure its adoption by the General Assembly, there can be no doubt that an attempt to implement its territorial provisions would meet with a veto of the United States.

Considering that the United States Government has committed itself to Israel to vote against a resolution of the Security Council that seeks to change resolution 242 (1967), it could be argued that in such event the veto would not be, strictly speaking, a veto by the United States but would, in fact, be a veto by Israel exercised through an intermediary.

In these circumstances, one can have doubts about the propriety or even the validity of the United States veto in matters relating to the Arab-Israeli conflict. Article 27, paragraph 3, of the Charter, which deals with the voting procedure in the Security Council, provides that in decisions under Chapter VI (Pacific Settlement of Disputes) a party to a dispute shall abstain from voting. By committing itself in advance to vote in the manner desired by Israel, the United States espouses its cause and makes itself a party to the dispute thereby technically disqualifying itself from casting its vote. Furthermore, Article 24, paragraph 2 of the Charter provides that in discharging its duties, the Security Council shall act in accordance with the Purposes and Principles of the United Nations. This obligation binds every member of the Council. Article 1 of the Charter states that the Purposes and Principles of the United Nations are, *inter alia*, to bring about by peaceful means and "in conformity with the principles of justice and international law" adjustment or settlement of international disputes or situations which might lead to a breach of the peace. In binding itself to vote and, in fact, voting against and, as a result, defeating Security Council resolutions for the benefit of a State which has displaced 2.5 million refugees, occupied their country, destroyed the historic and universal character of Jerusalem, and violated over 250 United Nations resolutions, can it be said that the United States is acting in conformity with the principles of justice and international law?

This is not the first time that the problem of a paralysing veto at the Security Council has arisen in an international crisis. The General Assembly found a remedy for such a situation at the time of the Korean war. On 3 November 1950 it adopted resolution 377 A (V) which has been called the "Uniting for Peace" resolution" (see appendix III below). This resolution stated in its operative part that the General Assembly:

> "1. *Resolves* that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to members for collective measures, including in the case of a breach of the peace or act of aggression,the use of armed force when necessary, to maintain or restore international peace and security".

The adoption of this resolution was justified by the terms of Article 1 of the Charter, which state that the purposes of the United Nations are "to take effective collective measures" for the prevention and removal of threats to the peace, and for the suppression of acts of aggression. The resolution is also justified by the terms of Article 24, which provide that Members of the United Nations confer on the Security Council "primary responsibility" for the maintenance of international peace and security and agree that in carrying out its duties under this responsibility, the Security Council acts under an authority delegated to it by the Members of the United Nations and, in accordance with general principles of law, in the event that the mandatory to whom authority is delegated is prevented from its exercise, the Members of the United Nations, in their capacity as principals, are entitled "to take collective measures".

Recourse to resolution 377 A (V) was had not only in Korea, but also in the Arab-Israeli war of 1956. As action by the Security Council was blocked by the vetoes of France and the United Kingdom, which had intervened at Suez on the side of Israel, a special emergency session of the General Assembly convened in November 1956 and adopted several resolutions which called for a cease-fire and the withdrawal of the armed forces of France, the United Kingdom and Israel. The General Assembly also established the United Nations Emergency Force (UNEF) to secure and supervise the cessation of hostilities. Recourse to the resolution was also made in 1960 in order to deal with the situation in the Congo. In all those cases, the direct intervention of the General Assembly proved effective.

Thus the Charter and the practice of the United Nations enable the General Assembly to overcome a veto by the United States which would seek to block the implementation of United Nations resolutions on Palestine. No determination of the existence of a situation requiring action is needed under Article 39 of the Charter because, as we have noted, such determination was made by the Security Council in 1948 and is still operative and further because the aggression is still continuing since Israel continues to occupy territories lying outside the boundaries of the Jewish State as delimited by resolution 181 (II). In any event, no such determination is required in the event of action of the General Assembly under the resolution of 3 November 1950.[11]

The way is open, therefore, to the United Nations to take coercive measures to enforce its resolutions on Palestine and to restore its credibility as an effective international organization. Palliatives, patchings and pious hopes will not settle the problem. Even fresh resolutions that do not remedy the problem at its root will not be of great help.

An intention is attributed to the European Community to seek an amendment to resolution 242 (1967) which will recognize the right of the people of Palestine to self-determination and at the same time, "to keep balance", will also provide for Israeli security, seemingly overlooking the fact that Israel's insecurity comes more than anything else from the revolting injustice which lies in its very foundation. In effect, any such amended resolution would mean that, on the one hand, the Palestinians can establish an independent State, and on the other, that it is implied that Israel's annexation of the territories it seized before 1967, is ratified. Hence, such amended resolution would remain subject to the criticism of leaving to the Palestinians only 20 per cent of their country.

Legally, the Security Council has no competence, whether in resolution 242 (1967) or in any amended resolution, to override or abrogate a resolution of the General Assembly, such as resolution 181 (II), since it is a body that possesses only delegated powers from the Members of the United Nations who together constitute the General Assembly. Moreover, it possesses no power to ratify Israel's occupation and usurpation of territory in violation of resolution 181 (II) either expressly or by implication through the giving of guarantees for its security.

Politically, the modest contribution which the amendment proposes to make, by recognizing in favour of the Palestinians what is in reality a God-given right of self-determination, not a right given by the Security Council, is completely wiped out by the express or implied ratification of the Israeli usurpation of the territory assigned by resolution 181 (II) to the Arab State.

Despite the fact that the initiative of the European Community might in the end prove to be of greater benefit to Israel than to the Palestinians, the United States Government and Israel have aligned their guns in order to fight it. Both Begin and Carter have rejected such initiative even before it has been put on paper or submitted in the form of a draft resolution to the Security Council. In a televised interview on 1 June 1980, President Carter threatened in advance to make use of the American veto to defeat any amendment of Security Council resolution 242 (1967). He said:

> "We will not permit in the United Nations any action that would destroy the sanctity of and the present form of United Nations [resolution] 242. We have a veto power that we can exercise, if necessary, to prevent the Camp David process from being destroyed or subverted, and I would not hesitate to use it if necessary".

There is no sanctity in resolution 242 (1967) or in the Camp David accords. Neither leads to peace or justice. Each aims at the implementation of a peace formula which Israel seeks to impose. It is a matter for regret that President Carter fails to see that the Camp David formula, which was based on the proposal for "autonomy" advanced by Menachem Begin, the Israeli Prime Minister, in December 1977, cannot lead to peace because it aims at the consummation of the injustice committed in Palestine. The Camp David accords do not represent a great diplomatic achievement, as claimed by President Carter, but constitute an attempt to draw the last curtain on the Palestine tragedy.

These considerations confirm the need for the General Assembly to take firm and decisive action for the establishment of a Palestinian State in the territory reserved by resolution 181 (II) of 29 November 1947 for the Arab State because it is the only way of doing a little bit of justice to the Palestinians and resolving peacefully the conflict. Some may question whether the United Nations can turn back the hands of the clock 30 years to implement its resolutions. But have not the Jews turned back the hands of the clock 3,000 years to exhume a Jewish State from the dust of history?

Notes

1/ Official Records of the General Assembly, Ad Hoc Political Committee, Part II, 1949, pp. 179-360.

2/ Henry Cattan, Palestine and International Law, 2nd ed. (London, 1976), pp. 75ff.

3/ Jorge Castanedo, Legal Effects of United Nations Resolutions (New York, Columbia University Press, 1969), p. 132.

4/ Cattan, op.cit., p. 80.

5/ Israel Shahak, Le Racisme de l'Etat d'Israël (Paris, Guy Authier, 1975), p. 156.

6/ Official Records of the General Assembly, Thirty-first Session, Supplement No. 35 (A/31/35).

7/ See, for example, Security Council resolutions 111 (1956) of 19 January 1956, 288 (1966) of 25 November 1966, 248 (1968) of 24 March 1968, 256 (1968) of 16 August 1968 and 265 (1969) of 1 April 1969.

8/ General Assembly resolutions 3092 (XXVIII) of 7 December 1973, 3240 (XXIX) of 29 November 1974, 3525 (XXX) of 15 December 1975, 33/113 of 18 December 1978 and 34/90 of 12 December 1979.

9/ John H. Davis, The Evasive Peace (London, John Murray, 1968), p. 107.

10/ Security Council resolutions 56 (1948) of 19 August 1948, 59 (1948) of 19 October 1948, 61 (1948) of 4 November 1948, 62 (1948) of 16 November 1948, 73 (1949) of 11 August 1949, 92 (1951) of 8 May 1951, 93 (1951) of 18 May 1951, 101 (1953) of 24 November 1953, 106 (1955) of 29 March 1955, 111 (1956) of 19 January 1956, and 171 (1962) of 9 April 1962.

11/ Hans Kelsen, The Law of the United Nations (London, Stevens, 1951), p. 979.

Appendix I

Article 22 of the Covenant of the League of Nations, 28 June 1919

Article 22. To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatary until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatary.

Other peoples, especially those of Central Africa, are at such a stage that the Mandatary must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilization, or their geographical contiguity to the territory of the Mandatary, and other circumstances, can be best administered under the laws of the Mandatary as integral portions of its territory, subject to the safeguards above mentioned in the interest of the indigenous population.

In every case of Mandate, the Mandatary shall render to the Council an annual report in reference to the territory committed to its charge.

The degree of authority, control or administration to be exercised by the Mandatary shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.

Appendix II

General Assembly resolution 273 (III) of 11 May 1949 on the admission of Israel to membership in the United Nations

Having received the report of the Security Council on the application of Israel for membership in the United Nations,[a]

Noting that, in the judgment of the Security Council, Israel is a peace- loving State and is able and willing to carry out the obligations contained in the Charter,

Noting that the Security Council has recommended to the General Assembly that it admit Israel to membership in the United Nations,

Noting furthermore the declaration by the State of Israel that it "unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them from the day when it becomes a Member of the United Nations",[b]

Recalling its resolutions of 29 November 1947[c] and 11 December 1948[d] and taking note of the declarations and explanations made by the representative of the Government of Israel[e] before the *ad hoc* Political Committee in respect of the implementation of the said resolutions,

The General Assembly,

Acting in discharge of its functions under Article 4 of the Charter and rule 125 of its rules of procedure,

1. *Decides* that Israel is a peace-loving State which accepts the obligations contained in the Charter and is able and willing to carry out those obligations;

2. *Decides* to admit Israel to membership in the United Nations.

Two hundred and seventh plenary meeting,

11 May 1949.

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[a] See document A/818.

[b] See document S/1093.

[c] See General Assembly resolution 181 (II).

[d] See General Assembly resolution 194 (III).

[e] See documents A/AC.24/SR.45-48, 50 and 51.

Appendix III

General Assembly resolution 377 A (V) of 3 November 1950

The General Assembly,

Recognizing that the first two stated Purposes of the United Nations are:

> "To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace," and
>
> "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace,"

Reaffirming that it remains the primary duty of all Members of the United Nations, when involved in an international dispute, to seek settlement of such a dispute by peaceful means through the procedures laid down in Chapter VI of the Charter, and recalling the successful achievements of the United Nations in this regard on a number of previous occasions,

Finding that international tension exists on a dangerous scale,

Recalling its resolution 290 (IV) entitled 'Essentials of peace', which states that disregard of the Principles of the Charter of the United Nations is primarily responsible for the continuance of international tension, and desiring to contribute further to the objectives of that resolution,

Reaffirming the importance of the exercise by the Security Council of its primary responsibility for the maintenance of international peace and security, and the duty of the permanent members to seek unanimity and to exercise restraint in the use of the veto,

Reaffirming that the initiative in negotiating the agreements for armed forces provided for in Article 43 of the Charter belongs to the Security Council, and desiring to ensure that, pending the conclusion of such agreements, the United Nations has at its disposal means for maintaining international peace and security,

Conscious that failure of the Security Council to discharge its responsibilities on behalf of all the Member States, particularly those responsibilities referred to in the two preceding paragraphs, does not relieve Member States of their obligations or the United Nations of its responsibility under the Charter to maintain international peace and security,

Recognizing in particular that such failure does not deprive the General Assembly of its rights or relieve it of its responsibilities under the Charter in regard to the maintenance of international peace and security,

Recognizing that discharge by the General Assembly of its responsibilities in these respects calls for possibilities of observation which would ascertain the facts and expose aggressors; for the existence of armed forces which could be used collectively; and for the possibility of timely recommendation by the General Assembly to Members of the United Nations for collective action which, to be effective, should be prompt,

A

1. Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations;

...

F. STAGES IN THE HISTORY OF THE LEGAL ISSUES IN THE PALESTINE PROBLEM: AN OVERVIEW

Abdeen Jabara
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The legal issues in the Palestine question can be divided into issues that have dominated the attention of legal scholars, diplomats, Governments and international organizations over four separate periods. Those periods are, respectively, from the beginning of the League of Nations Mandate until Britain announced termination of its presence as the Mandatary in 1947, from 1948 to 1967, from 1968 to 1974 and from 1974 to the present.

The period of the British Palestine Mandate raised numerous legal issues. The jurisdiction of the League of Nations to establish the Mandates System, the status of the World Zionist Organization/Jewish Agency in international law and the denial of self-government to the indigenous Arab Palestinian population are some of the more salient ones, including the legal status of certain recommendations of the successor organization to the League, the United Nations, relative to Palestine as the Palestine Mandate terminated. This period of time from 1920 to 1947, raised certain legal issues that have a solid basis in international law but are, at best, tangential to the central legal issues in the Palestine question that are today recognized by the world community, a community that has seen substantial change since the League of Nations established the mandate system.

In the aftermath of the creation of the State of Israel in 1948 the focus of attention was on the armistice agreements that had been entered into between the Government of Lebanon, Jordan, Syria and Egypt on the one hand and the Government of the newly created State of Israel on the other. No legal termination of the state of war had been effected by the concluding of the armistice agreements, an armistice agreement being merely a bilateral negotiated contract for the suspension of hostilities for a negotiated period of time. The legal debate that emanated from the armistice agreements was what constituted belligerent rights under international law since a *de jure* state of war continued to exist in the absence of the conclusion of an agreement of peace.

The Arab States continued to assert their claims regarding repatriation and compensation for the Palestinians, the boundary and territorial questions raised by the establishment of Israel and the subsequent war, the status of Jerusalem, etc. The failure of the Palestine Conciliation Commission and the parties concerned to resolve these outstanding claims necessitated the continuance of the armistice regime. Israel contended that the armistice agreements that it had concluded with the several Arab States had brought the war to an end while Egypt, Lebanon, Syria and Jordan all correctly maintained that an armistice agreement was merely a termination of active hostilities but did not constitute resolution of the underlying political, demographic and geographic issues. For instance, article IV of the Egypt-Israel armistice agreement of 1949 establishes the status quo of the military position in terms of areas and numbers of troop deployment at the date of signing and specifically states that "it is not the purpose of this Agreement to establish, to recognize, to strengthen, or to weaken or nullify, in any way, any territorial, custodial, or other rights, claims or interests which may be asserted by either party in the area of Palestine".

It is interesting and important to note here that no party representing the Arab population of Palestine had participated in or was otherwise involved in any dispositions following the 1948 hostilities between armed units of several Arab States and the newly established State of Israel.

Pursuant to the armistice agreements, mixed armistice commissions were established between Israel and the Arab States that had concluded armistice agreements in order to give effect to the provisions of the agreements and to attempt to resolve the differences that arose.

During this 1948-1967 period, Arab legal writers wrote extensively about the legal ramifications of such matters as the Balfour Declaration, the British Mandate over Palestine and the United Nations resolution recommending the partition of Palestine into two separate political entities. United Nations resolutions during this period were generally a reaction to breakdowns in the cessation of hostilities under the armistice agreements and reflected the composition of United Nations membership at the time. For instance, Egypt continued to exercise rights under the Israel-Egypt Armistice Agreement of 1948, as did Syria and Jordan. An exercise of these rights, such as central of territorial waters and waterways, frequently resulted in a renewal of armed hostilities.

In the period following the June 1967 war between several Arab States and Israel, the passage of Security Council resolution 242 (1967) of 22 November 1967, the occupation by Israeli military forces of the remainder of mandated Palestine and portions of other Arab areas and the emerging prominence of the Palestine Liberation Organization (PLO) prosecuting a military and political struggle for the liberation of Palestine very substantially affected the legal considerations in the conflict in term of their impact on the international community.

In the immediate aftermath of the June war, a number of Arab jurists met at Algiers to discuss the still unsettled legal aspects of the Palestine problem. The issues that came up at that meeting were several, some of which were to assume much more importance in the 1970s and will undoubtedly occupy international legal and political attention in the 1980s. The issues most prominently discussed at that conference were:

(a) The right of peoples to self-determination;

(b) The legal character of the United Nations;

(c) State recognition;

(d) The Jewish people concept in international law;

(e) The rights, privileges and responsibilities of parties to an armistice agreement;

(f) The legality of the League of Nations Mandate of Palestine.

It was the legal issue of the right of the Palestinian people to self-determination under international law that was to receive increasing attention among Arab jurists. During the meeting of the International Conference of Parliamentarians on the Middle East Crisis, held at Cairo in February 1970, some of the participants from Arab countries (Egypt, Kuwait and Jordan) presented papers that clearly showed a changed legal emphasis that was to receive increasing international acceptance.

Of course, immediately after the 1967 war, the United Nations began expressing concern for Israel's treatment of Palestinians in the newly occupied territories. On 4 July 1967 the Security Council unanimously adopted a resolution calling upon Israel to facilitate the return of persons who had fled during the hostilities and recommending respect by all concerned parties for the "humanitarian principles governing the treatment of prisoners of war and the protection of civilian persons in the time of war". One month later the General Assembly affirmed the Security Council resolution by a vote of 116 to none with 2 abstentions.

Initially the United Nations was interested in repatriation and compensation for Palestinians, as was the case in the 1948-1967 period during which the repatriation/compensation provision was adopted annually by the General Assembly. But by late 1968, allegations of other Israeli violations of Arab human rights had become so frequent that the General Assembly established a Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories. Likewise the United Nations Commission on Human Rights established a special Working Group of Experts to investigate allegations concerning Israeli violations of the Fourth Geneva Convention of 1949. Since the establishment of these two United Nations bodies to monitor Israeli practices in what the international community considered to be occupied territory, the central legal issue that gained international attention in the Palestine problem was the question of Palestinian human rights. And as the resistance to occupation by the Palestinian people in the West Bank and Gaza Strip quickened, so did the repression of that resistance by the occupying Power. Moreover Israel immediately moved to annex Arab Jerusalem and its environs and began to import a portion of its Jewish civilian population into the territories for settlement purposes. The fact that Israel had physically occupied the remainder of Palestinian land, a demographically homogenous area, made the issue of Israeli State conduct vis-à-vis the Palestinians an internationally considered issue of juridical importance. Following the occupation, numerous other national and international bodies and organizations conducted investigations and issued reports concerning Israeli policies and practices in the occupied territories, all of which condemned the extensive violations of internationally recognized rights by Israel as occupying Power.

Thus, from the period of 1967 to 1974 the issue of Palestinian human rights under various international conventions and agreements became the dominant internationally recognized legal issue in the Palestine problem.

Of course this development occurred against the backdrop of the growing prominence of the PLO as the sole legitimate representative of the Palestinian people. Coupled with this was the legal debate in the international community over the legal ramifications of armed insurrection as an agent of change and a substitute for inter-State war, the status of insurgents under traditional international law, the scope of applicability of the humanitarian laws of warfare to internal armed conflict, the observance of minimum humanitarian laws in non-international armed conflicts, detention and criminal prosecution in internal conflicts, etc. Peoples struggling for liberation from colonial rule throughout the world were demanding that international legal norms protect them in their struggles while the old international order continued to construe the rights of insurgents narrowly. In many instances where insurgency threatened established State interests of third parties, an effort was mounted to secure international and domestic sanction against States that "aided and abetted international terrorism". The most recent examples of third-party intervention in the Palestine conflict are the efforts by the United States Government to extradite a 20-year-old Palestinian in federal custody to stand trial in Israel on criminal charges arising out of the expulsion of a timed explosive device that was detonated in Tiberius, Israel, on 14 May 1979. In the case of the extradition of Ziad Abu Ein, the United States Court of Appeals for 7th Circuit, No. 80-1487, the United States Justice Department and Department of State sought to denominate the alleged offence as a common crime and not a non-extraditable "offence of a political character" under the terms of the United States-Israel Extradition Treaty of 1963. This intervention by the United States Departments of State and Justice occurred despite the express provisions in international law and United States domestic law enjoining the extradition of persons charged with committing political offences.

In connection with the Middle East question, very considerable importance has always been assigned to Security Council resolution 242 (1967) and the acceptance of same by the State parties to that conflict. Of course, just as in the Arab-Israel armistice agreements concluded in 1948-1949, the Palestinians were neither consulted or otherwise participated in or adhered to resolution 242 (1967) although most of the international community, through the struggle of the Palestinians, under the leadership of the PLO, recognized that the Palestinians were an essential party to any just and lasting peace in the Middle East. Of course the subsequent bilateral agreement between the United States, Egypt and Israel at Camp David refers to resolution 242 (1967) in its preamble and, indeed, goes beyond resolution 242 (1967) in referring to "Palestinian people" instead of the "Arab refugees" construction of resolution 242 (1967). Camp David sought, by the restricted nature of its participants, to pre-empt the growing international legal consensus about the centrality of the Palestinian people in the Palestine problem, the recognition of the PLO as the sole, legitimate representative of the Palestinian people, and that the essence of the Palestine problem was the exercise by that people of rights established in international law - to equal rights and self-determination.

As early as 8 December 1970, the United Nations General Assembly, representing the overwhelming majority of the peoples of the world, recognized in resolution 2672 C (XXV) that "the people of Palestine are entitled to equal rights and self-determination" and that full respect for these rights was essential to Middle East peace. General Assembly resolution 3089 D (XXVIII) of 7 December 1973 asserts that the right of return and self-determination have a concrete legal linkage. General Assembly resolution 3236 (XXIX) of 22 November 1974, in which the PLO was invited to participate on an official observer basis, more clearly sets forth (a) the right to self-determination without external interference and (b) the right to national independence and sovereignty. This resolution goes further in according to the Palestinian people the right to utilize all means to regain its rights.

Thus, from 1974 onward, the question of the violation of Palestinian human rights was clearly seen by the international community as occurring only within the context of the violation.

G. UNITED NATIONS RECOGNITION OF PALESTINIAN RIGHTS DETERMINES THEIR LEGITIMACY

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Introduction

The progressive development of international law is an affirmation of the principles concerning universal respect for human rights and freedom. The need for international law principles to regulate the struggles against colonial domination and other forms of crimes committed by man or men on this Earth is greater now. The best thing to happen to mankind in the light of contemporary international situation was the establishment of the United Nations.

In the Preamble to the Charter of the United Nations, for instance, world communities are said "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of man and woman and of nations large and small" and "to promote social progress and better standards of life in larger freedom".

From 1945 to this day, various resolutions and treaties have been adopted in the United Nations concerning self-determination and independence of various peoples who have been denied their rights.[1] The Charter of the United Nations is the first document in the history of international relations to secure the principles of universal respect for fundamental human rights and freedoms for all peoples throughout the world without distinction as principles of international law.

According to the Charter, one of the purposes of the United Nations is to achieve international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion" (Art.1, para.3).

Actually, the United Nations was set up to maintain international peace and security. This means that one of its main purposes is to achieve cooperation in promoting human rights. This is clearly stated in Article 55 of the Charter. The present paper will attempt to discuss United Nations recognition of the inalienable rights of the Palestinian people as a determination of its legitimacy. This legitimacy, therefore, gives it the right of return to Palestine and the right to national independence and sovereignty in accordance with the Charter of the United Nations.

The question of human rights violation in the Middle East obviously constitutes a danger to the Charter in the sense that the fundamental principles of international law are negated. This trend causes grave concern for a just and lasting solution on the basis of the attainment of the inalienable rights of the Palestinian people coupled with its right to return to its homeland, including its right to national independence and sovereignty in Palestine in accordance with the Charter of the United Nations.

It is particularly important to note that the United Nations does not make laws. Laws are made by courts and only courts deal with legal issues. However, two aspects are worth examining as regards the whole question of legality in international organization. The United Nations can be seen as a law-making agency and delegates have legal position and status. But resolutions and declarations are what one may term as "soft" law, while treaties can be viewed as "hard" law. It has often been much debated and a case has been established that resolutions are not legally binding. If conventions are ratified, the particulars can be considered legal obligations. In this sense, international law is made.

The important thing to note in this respect is the fact that these resolutions often reflect the views of the majority. On many occasions in the United Nations, some resolutions (dealing with Palestine and apartheid) constantly condemn and protest against injustice, inequality and human rights violation. In the pursuit of solutions to these problems, the "immunity" of veto always causes a much more serious problem.

So the political implication of the veto has tremendous consequence to the legal issues in the Palestine question. The main purpose of the Covenants on Human Rights after the proclamation in 1948 of the Universal Declaration of Human Rights was to create legally binding rules ensuring the observance of fundamental human rights and freedom by the parties involved. Unfortunately, the records of Human Rights Commission show that some Powers in the Security Council are persistent in preventing the legal binding rules as regard the observance of human rights.[2]

Historical background

It is very vital to understand the historical background that led to the continuing conflict between the Arabs and the Jews in the Middle East before one understands the legal issues in the Palestine question. We shall not deal with the history of the antiquity of Palestine, rather, we shall only focus our attention on the contemporary history of this area and its relevance to the whole question of Arab legitimacy and their fundamental human rights as regards their homeland - Palestine. The Zionist movement was formed by the Jews with the sole aim of making Palestine an independent Jewish nation in the late 1800s. This development followed the Jewish settlement that began in Jerusalem and other parts of Palestine by the mid-1800s. During the early 1900s, the Arab nationalist groups in Palestine opposed the Jewish settlement. Despite the bitter Arab opposition, the number of Jews in Palestine was increasing rapidly.

Balfour Declaration

Many causes contributed to the development of the crisis situation in the Middle East. The major one was the Balfour Declaration. It was a British Government document that dealt with the establishment of a Jewish homeland in Palestine. It was the British Foreign Secretary, Sir Arthur James Balfour, who issued this Declaration in 1917. This was the fundamental point of departure as regards the crisis between the Jews and the Arabs. Both the Jews and the Arabs have claimed Palestine. So the Arabs saw this declaration from a different dimension, and the Jews likewise saw it from their own perspective. No sooner than this document was declared, bitter controversy that set the stage for continuing conflicts between these two parties (Jews and Arabs) had begun in the Middle East. This declaration stated that "His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine or the rights and political status enjoyed by Jews in any other country". When this Declaration was issued during the First World War, British forces were already fighting to take over the control of Palestine from the Ottoman Empire. The main reason why Britain wanted to do so was its location near the Suez Canal which links the Mediterranean and the Red Seas. Britain was also sure that the Balfour Declaration could earn it the support of Jewish leaders in Britain, the United States and other countries in achieving its goal of winning Palestine. Eventually, the League of Nations endorsed the declaration in 1922 and gave Britain a Mandate (order to rule) over Palestine. Hence the Jews who supported the establishment of a Jewish national homeland in Palestine came to the conclusion beyond any doubt that the Balfour Declaration pledged Britain's support for their goal. On the other hand, the Arabs saw this Declaration as an insult to their nationalism and a threat to their future well-being in their homeland. The British Mandate over Palestine was virtually over in 1947. In 1948, the independent nation of Israel was established despite bitter and strong Arab opposition. Thus the British Government had fulfilled its obligation to the Jews in helping them to transfer the "national home" into a "State" before they left the country.

Provisional Government

The events that took place in Palestine in 1947-1948 gave rise to the Palestinian refugee problem. On 30 September 1948, a Palestinian convention was held in Gaza and a provisional Government for all Palestine was formed. The Arab League (except Jordan) recognized the Government of all Palestine in exile.

Resolution 194 (III) of 11 December 1948

Before the United Nations Mediator in Palestine, Count Folke Bernadotte, was assassinated by Jewish terrorists, he sent a comprehensive report to the General Assembly. It was his recommendation that formed the basis for General Assembly resolution 194 (III) of 11 December 1948. The resolution established a Conciliation Commission for Palestine and an instruction was given to "take steps to assist the Governments and authorities concerned to achieve a final settlement of all questions outstanding between them".

General Assembly resolution 194 (III) has been very controversial in the sense that some see it as a vague document confirming the right of the refugees to return to their homes. The Arab interpretation of paragraph 11 of resolution 194 (III) gave recognition to the repatriation of refugees:[2]

(a) The paragraph affirms a "right" of refugees to return to their homes, if they choose;

(b) The paragraph affirms a "right" to compensation for those refugees choosing not to return;

(c) These "rights", both to return or, in the alternative, to compensation, are to be implemented under principles of international law or in equity.

The major problem that followed repatriation of the Palestinian refugees was the question of resettling these refugees in their homeland.

The question of resettlement brought about a major disagreement between the Jews and the Arabs. Israel was restricting the locations for refugee settlement. This angered the Arabs in the sense that the refugees were being subordinated to socio-economic considerations. Throughout the years between 1952 and 1968, the General Assembly continued to reaffirm resolution 194 (III).

While the questions of repatriation and resettlement of the Palestinian refugee were not adequately answered, at least to the satisfaction of the Arabs and their sympathizers the world over, some major developments were taking place in the Arab League.

In March 1959, the Arab League made the following recommendations:

> "To reorganize the Palestinian people and perpetuate their entity as a unified people whose voice would be heard all over the world through representatives selected by the Palestinian people."[4]

In May 1964, the first Palestine National Congress met in Jerusalem and established the Palestine Liberation Organization (PLO) whose purpose was to "provide the institutional and leadership structure of the struggle for the liberation of the Palestinian national homeland".

Six-Day war, 1967

In the development of the Palestinian situation we have discussed earlier, several attempts were made by the world body to reconcile the parties in the Middle East dispute. Several resolutions were passed in an endeavour to promote better cooperation and peace in the area, but to no avail. One development that jeopardized chances for settlement occurred on 5 June 1967 when Israel suddenly attacked Egypt, the Syrian Arab Republic and Jordan. This attack was condemned as an act of aggression. Although Israel kept on saying it acted on the basis of self-defence, the three Arab countries mentioned (Egypt, the Syrian Arab Republic and Jordan) did not prepare for this aggression. Neither were they preparing to attack Israel. Following this attack by Israel, the Security Council adopted resolution 242 (1967) expressing its concern with the grave situation in the Middle East. The Security Council, in this resolution, emphasized the "inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security". In this regard, the Security Council drew the attention of the parties involved and all Member States to remember the fact that when they accepted the Charter of the United Nations, they by implication accepted to act in accordance with Article 2 of the Charter. The Security Council brought out the following principles:

(a) Withdrawal of Israel armed forces from territories occupied in the recent conflict;

(b) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force.

This attack of six-day war of 1967, which made Israel occupy Arab territory, brought the whole Middle East situation in a very serious dimension. This burning situation has also changed the mood of the Members of the United Nations. The Palestinian members were invited to address the Special Political Committee of the General Assembly of the United Nations in 1967. They presented their case, especially the consistent violations of the Charter, the Universal Declaration of Human Rights and the rights to self-determination by Israel since 1948.

In 1968 when the General Assembly met, representatives from Arab countries reintroduced the previous year's legitimate rights of the Palestinian people and the right to self-determination. They emphasized that the creation of Israel in 1948 was a great injustice to the Palestinian Arabs and suggested that, if the Palestine question was not solved and if the refugees were not given their legitimate rights of returning to their homeland (Palestine), there would be continuous tension and insecurity in the area.

From 1969 onwards, the General Assembly started to change its method of dealing with the Palestine question in the United Nations. It was from that period that the third-world countries in the General Assembly started sponsoring resolutions dealing with the Palestine question. The General Assembly, from then on, started to adopt resolutions dealing with the repatriation of the Palestinian refugees and their self-determination. General Assembly resolution 2535 B (XXIV) of 10 December 1969 was the first to recognize that "the problem of the Palestine Arab refugees has risen from the denial of their inalienable rights under the Charter of the United Nations and the Universal Declaration of Human Rights".

On the basis of the Charter and the Universal Declaration of Human Rights, resolutions that followed dealing with the people of Palestine and its right to self-determination continued to reaffirm the determination of the world body to safeguard the principles of international law for global peace and security. General Assembly resolution 2672 C of 8 December 1970 was very important to the whole question of Palestine. It was the first resolution to use the expression "people of Palestine". In this sense the resolution acknowledged the right to self-determination by the people of Palestine.

In the following years, 1971 and 1972, similar resolutions affirming the rights of the Palestinian people to self-determination were also adopted by the General Assembly of the United Nations, e.g. resolution 2792 D of 6 December 1971. The Palestine question started to gather the necessary momentum which would eventually help the people in question (Palestinians) to gain more international sympathy.

General Assembly resolution 3089 D of 7 December 1973 reads as follows:

> "... that the enjoyment by the Palestine Arab refugees of their right to return to their homes and property, recognized by the General Assembly in resolution 194 (III) of 11 December 1948, which has been repeatedly reaffirmed by the Assembly since that date, is indispensable for the achievement of a just settlement of the refugee problem and for the exercise by the people of Palestine of its right to self-determination."

Another important development as regards the inalienable rights of the Palestinian people occurred on 22 November 1974 when the General Assembly adopted resolution 3236 (XXIX). It stated in part:

> "*The General Assembly,*
>
> "...
>
> "*Recalling* its relevant resolutions which affirm the right of the Palestinian people to self-determination:
>
> "1. *Reaffirms* the inalienable rights of the Palestinian people in Palestine, including:
>
> "(a) The right to self-determination without external interference;
>
> "(b) The right to national independence and sovereignty;
>
> "2. *Reaffirms also* the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return."

The next important development was a diplomatic victory to the Palestinian Arab.

In 1974, Arab Governments recognized the PLO as the "sole legitimate representative of the Palestinian people". In this regard, Palestine is regarded as the homeland of the Arab Palestinian people, who possess a legal right to it. "The liberation of Palestine will restore to the Palestinian his dignity and liberty - armed struggle is the only means of liberating Palestine - and the Palestinian people have the ultimate right to liberate and retrieve their homeland.[3/] On 14 October 1974, the PLO received United Nations recognition and a government in exile was recognized by the other Arab nations for a future Palestinian State to be formed from land regained from Israel along the West Bank of the Jordan River.

Legitimacy established

Having achieved such major victory of recognition by the United Nations, the PLO's legitimacy has therefore been established beyond any reasonable doubt. The non-Arab parties directly or indirectly involved in the Middle East crisis, should try to accept the PLO's legitimacy as established by the world body. This recognition will help in paving a healthy path for better understanding and cooperation as regards this crisis. In addition to this, the Arab Governments have endorsed the PLO. This double recognition (external and internal) is a testimony to its legitimacy. Any reasonable person should accept this reality on the basis of its legal validity.

If the PLO's legitimacy is not accepted, the rejection can only promote some doubt in the constitutional and political system of the United Nations. Already, some people's fear is greatly increasing about the future of human rights in the United Nations. Some are even calling for the restructuring of the United Nations system in the sense that the big Powers who dominate the Security Council by virtue of their veto will continue to be the centre of attraction. The third-world Members of the United Nations are the periphery of the United Nations system since they do not have a veto. It is quite threatening to see that legitimacy established is legitimacy denied. If the United Nations system cannot save this situation, if the PLO, with its representative in the United Nations, is still being humiliated by some parties as a "terrorist" body, the question of legitimacy is seriously challenged. Not only this, the dignity of the Palestinian Arabs is unfortunately disregarded. This is a very serious problem that challenges the very foundation of international law and the principles of justice, equality and freedom. The United Nations in this respect has the duty of safeguarding its Charter in an endeavour to protect the Universal Declaration of Human Rights by taking all the necessary steps and actions to see that all its Member nations, without exception, recognize the legitimacy of the PLO. This would lead to increased international understanding of the Palestinian question. It would eventually bring about a meaningful and just solution to this problem - a solution that would establish a just and lasting peace in the Middle East on the basis of the attainment of the inalienable rights of the Palestinian people, including its right of return and the right to national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations. It is necessary to take this fundamental position in recognition of the Universal Declaration of Human Rights, and in defence of global peace and security for the establishment of justice, equality and freedom without restriction.

Conclusions

A case for the fundamental human rights for the Palestinian Arabs has been established by the Charter of the United Nations. Another case of self-determination has also been made in favour of the Palestinians. Their refugee status has necessitated their legitimate claim for repatriation and settlement in their own homeland of Palestine. The United Nations has adopted a number of resolutions to this effect. The United Nations recognition of the PLO, coupled with its acceptance by the Arab Governments, indicate its legitimacy. The big problem now is how to go about solving the Palestine question. If international law is carefully codified and extended to regulate the political relations of the United States and Israel on one hand, and the Arab nations (including the PLO) on the other, there can be an answer to this burning question. The problem we have been encountering with international law is the result of the decentralized structure of international society and also the decentralized nature of international law itself. Because of this reason, the instruments of international law are not fully effective. In most cases they are frequently violated. This is due to the fact that international law is deficient in the area of judicial decisions.[6] Articles 39, 41 and 42 of the Charter are considered the heart of the United Nations system of law enforcement. Yet they fail to force Israel out of the occupied territories since 1967. Condemnations, resolutions upon resolutions and affirmations of previous condemnations and resolutions could not reclaim the homeland for the Palestinians from Israel. One could say that international law, at least under the present United Nations system, is a "toothless dog". Recent General Assembly resolutions (3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 31/20 of 24 November 1976, 32/40 A and B of 2 December 1977 and 33/28 A to C of 7 December 1978) also expressed the same demand concerning the inalienable rights of the Palestinian people. After demonstrating this humanity and international morality, no just solution to the problem of Palestine has been achieved and at the same time the situation in the Middle East is still causing a major threat to global peace and security. The final note, therefore, is a call to all concerned, especially those parties who continue to slow down the chances for permanent settlement and the restoration of law and order in the area of the conflict, to reconsider their position for reason to prevail in the Middle East. The Palestinian people should not be refugees in exile everlastingly. The world community has a collective responsibility to help it get its inalienable rights once and for all. If this principle of international law is negated, the United Nations cannot be our undying hope for universal peace, security, justice, equality and freedom for all. At this juncture, a call to the major Powers is vital. They should re-evaluate their positions on the Palestine question in the interest of global peace and security. The former United States Secretary of State, Mr. Cyrus R. Vance, put it:

> "The 1979 peace treaty between Israel and Egypt is an historic achievement. We have no more urgent diplomatic priority than the effort to complete and broaden that peace so that Israel, the neighbouring Arab States, and the Palestinian people will be able to live securely and with dignity. ... The President has invited President Sadat and Prime Minister Begin to Washington for talks in April. They know that the Camp David process provides the best opportunity in 30 years to bring the security of peace to the Middle East. We cannot let it slip away."[7]

Every attempt has been made to secure the inalienable rights of the Palestinian people on the basis of the Charter and the principles of the Universal Declaration of Human Rights, but to no avail. The Palestine question cannot for any reason be ignored, nor can the world of reason fail to establish the policy of peaceful coexistence in action. To this end, a memorandum was already submitted to the summit meeting at Camp David,[8] discussed the United States legal and moral obligations to assist in a just solution of the Palestine problem and the Middle East problem generally. The United States, as a member of the Conciliation Commission for Palestine, has moral and legal obligations in accordance with the United Nations resolution, to help in bringing about everlasting peace and security in the Middle East including the granting of the inalienable rights of the Palestinian people and its independence.

Perhaps it is true that there is the need for "unfettered investigation of new political techniques" in an endeavour to lay a concrete foundation for the "creative diplomacy"[9] that can create the conditions for a just solution to the Palestine question.

Notes

1/ See Webster, "The Making of the Charter of the United Nations", offprint from History, vol. 33, No. 115 (March 1947), p. 35. See also Lauterpacht ed., International Law and Human Rights (New York, 1950), p. 146.

2/ The United States refusal to ratify the Human Rights Covenants was sharply criticized and condemned by United Nations Members.

3/ Georg Tomeh, Permanent Representative of Syria to the United Nations, "Legal Status of Arab Refugees".

4/ See Isam Sakhnini, P.L.O., The Representative of the Palestinians, Palestine Research Centre (Beirut, 1974), p. 8.

5/ Articles 1, 3, 4, 17 and 29 of the PLO Charter.

6/ Hans J. Morgenthau, Politics among Nations, 5th ed. (New York, Alfred A. Knopf), p. 281.

7/ Cyrus R. Vance, statement to the Senate Foreign Relations Committee, United States Congress, on America's posture, purposes in the world, Washington, D.C., 27 March 1980.

8/ Issa Nakhleh, Chairman, Palestine Arab Delegation and Permanent Representative of the Arab Higher Committee for Palestine, submitted this memorandum to the summit meeting at Camp David on 5 September 1978.

9/ Professor Michael Reisman, The Art of the Possible (New Jersey, Princeton University Press, 1970).

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H. THE ISRAELI SETTLEMENT POLICY IN THE OCCUPIED ARAB TERRITORIES

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The dimensions of the existing Zionist project based on colonialist settlement are becoming obvious and easily understood as each day passes since the establishment of the Israeli entity in 1948 and the occupation of Gaza, the West Bank and the Golan Heights in 1967. The fascist nature of this project is made more evident through the uprooting of the Palestinian people from its homeland and the planting of the Zionist settlers instead.

The Zionist oppressive practices and policy of racial discrimination applied against the Palestinian people, including the policy of annexation, deprivation, imprisonment and torture, destruction of houses, abolishment of complete villages, deterioration of education, the policy of collective punishment, of intended murder and of political deportation, all such practices aim at uprooting the Palestinian people from its land, confiscating its national rights and preventing it from its right of self-determination and the establishment of its State on its land.

It is very easy for anyone who was tracing the procedures of land expropriation and the establishment of Zionist settlements during the past era before and after the establishment of the Israeli State until the recent wide wave of settlement during Menachem Begin's Government and with the power of the extremist Zionist organizations, to recognize that when Israel and its imperialist ally talk of peace and the autonomy project to achieve peace, it means in fact a kind of peace that constitutes a cover for the continuity of settlement in all the areas occupied by war and so to the continued dispersion of the Palestinian people and its deprivation from all its national and human rights.

Features of the settlement wave after the establishment of the State of Israel in 1948

The establishment of the Israeli State in 1948 did not constitute the end of the road as far as settlement policies were concerned. These policies, which were started in Palestine by the Zionist movement, were supported by international colonialism towards the end of the last century. On the contrary the establishment of the Jewish State constituted the instrument through which this settlement policy was carried forth and on a larger scale agrees with the aims of the Zionist imperialist ally, to lead this area to complete submission, its people to slavery and goods for expropriation. The practice of expelling Palestinians from their land continued after the Rodos Agreement in April 1948. An example would be the expulsion of the inhabitants of Hasa, Kabthia and Jauuni in the Safad area, whose villages were completely abolished. In August 1950 the rest of the inhabitants of the Majdal Ashkalon, numbering 2,000, were expelled. In January 1951 inhabitants of 13 villages in the Ara Valley in the area of Muthalth were expelled following the annexation of the area to Israel. In September 1953 the inhabitants of the village Umi Alfaraj were expelled and the village was abolished. In the Negeve area where 48,000 Palestinians lived until 1948, the majority of the inhabitants were expelled by Israeli authorities to Jordan and the Sinai, only 13,000 of them remained there following the establishment of the Israeli State. Four hundred seventy-eight out of 585 villages within the Israeli border were demolished. The remaining 107 villages were seized and their land confiscated. The percentage of Palestinians in Israel dropped to 17.98 in 1949 and 12.98 in 1950. Israeli authorities confiscated through arbitrary procedures most of the lands of Palestinian villagers. Until 1952, Palestinians owned and cultivated 1,250,000 dunums. In 1953 and according to a special law, almost a million dunums were confiscated, in addition to 70,000 dunums belonging to Islamic wake. In Galilee, however, which is seriously threatened now with Judaization, 210 villages existed before the establishment of the Israeli State, of which 135 villages were destroyed and the inhabitants were expelled.

The confiscation of lands continued in Galilee and it seems that there is no intention to end it. During the past few years, the Israeli Minister of Agriculture, General Sharon, formed armed groups called the Green Patrol, who would go around the Negev area firing their guns at sheep belonging to Arab bedouins. These patrols would also burn the bedouins' lands, steal their property, destroy their wells and carry them by force to special detention camps.

Such patrols also function in the Galilee since the demographic conditions there are developing towards the interest of the Palestinian Arabs in the area.

Such patrols are led by Ariel Sharon or by other Zionist criminals like the Gush Emunim, Kakh and the gang of Meir Kahane who represent extremist fascists currently in Israel. Barbaric attacks are being launched on West Bank cities, camps and villages in Hebron, Dheshe, Ramallah, Nablus and Jericho in an attempt to terrorize Palestinian citizens and force them to leave their land, which would be used for the establishment of further Zionist settlements.

Stages in the development of the occupation authorities' settlement policy in the West Bank and Gaza Strip

The Israeli authorities started the establishment of colonialist settlements in 1967 in the occupied areas according to an organized systematic plan leading up to the fulfilment of certain views on the future of these areas. Settlement belts were thus constructed during the Labour Party Government's rule on the border area of the Jordan Valley and the area lying between the Gaza Strip and Egypt. Settlements were also widely spread over the Golan Heights. The Labour Government, however, left a door opened for compromise within the framework of the Allon plan, a compromise regarding the possible return of a form of Jordanian administration and regarding the intensive settlement of the West Bank and the Gaza Strip. The settlement belts would thus, and in all conditions, constitute Israel's secure border lines. Therefore the Labour Government established all along the eastern border of the West Bank from north to south two settlement belts, the first included 15 agricultural settlements from the south of the Dead Sea to the northern border with Israel. The other belt included nine agricultural and industrial settlements lying to the north of the Jordan Valley and stretching to the south on the Jerusalem-Jericho road. A long belt was constructed from the north and in the Jordan Valley. The Jewish Agency and other Zionist settlement organizations planned a settlement project within the same political framework, and to be executed in 20 years, between 1975 and 1995. The aim of this project was to control the Jordan Valley and to exploit the natural resources of the area - land, water and climate, in the interest of Zionist settlers. This project reached a developed stage of progress since 70 per cent of the cultivated land was under the control of Zionists. In the area of the valley, infrastructure of the project was also developed, the digging up of wells, water pipes for irrigation, electric cables, telephone lines, good housing accommodations for settlers, hot houses for plants and a system of irrigation.

In the Gaza Strip, the Labour Party Government established 17 settlements, 15 of which constituted a barrier between the Egyptian border aiming at secluding the strip from Egypt. These settlements were established on an expropriated area of land of 119,242 dunums, which is one third of the land at the shore for the establishment of settlements for the seclusion from the sea westwards, in addition to its seclusion from the Egyptian borders.

The aim of the settlement plan of the Labour Party was based on the following:

(a) Preventing contact and communication between Palestinians and Jordanians from the West and East Banks, respectively, encompassing them as an introductory step leading to their immigration and vagabondage;

(b) The aim behind the construction of intensive huge buildings around the Old City of Jerusalem was to prevent the extension of the Palestinian citizens in the city and to force them to leave by making them feel that they lived in a closed ghetto, which would eventually lead to the Judaization of the city and full control over it.

Settlement plan of the Likud Party

The Labour Party's settlement plan did not satisfy the ambitions of the Herut and Likud parties. Since the very beginning of his rule, Menachem Begin declared that the areas of Judea and Samaria in the West Bank were liberated areas belonging to Israel. In 1979, the Likud Government issued a decision allowing Jews to own land in all parts of the occupied areas, considering them to be Israeli lands. In accordance with this settlement attitude, the Likud Government started to disrupt the populated areas in the West Bank by dividing it into small square areas enclosed by settlements on all sides in order to separate the areas and seclude them in an attempt to connect the areas to Israel after reducing of the population of those areas. This closes the way before any settlement and compromise can be made regarding the West Bank land that may lead to an independent Palestinian State.

The Likud Party started to establish a number of settlements that formed a third belt on the western hills of the north of the West Bank as a plan for the extension of the Israeli borders to approach the condensed populated areas in the north: Nablus, Jinin, Tulkarem and Kalkilia. This settlement project divided the north of the West Bank into two small areas. Three horizontal roads were also established to join Israel with three settlement belts. One road lies south of the West Bank, the other in the Nablus area in the north, and the third in the extreme north. The Likud Government spent $40,000,000 in 1979 for the construction of the infrastructure of the third settlement belt. The settlement budget was increased for the year 1980 to 200 million I.L. for the expansion of the already transplanted settlements and the execution of the project leading to the seizure of condensed populated areas in the West Bank and tearing them apart.

The President of the Settlement Department in the Herut Party, Metitiaho Gross, submitted a wide settlement plan for the southern borders of the Gaza Strip. The project cost 2,500 million I.L. and involved 141,000 dunums. Gross found it important to start on the construction of a military settlement in the area to bring about quick demographic changes there.

Raanan Vitce, President of the Settlement Department in the Jewish Agency, however, completed a comprehensive project for the Gaza Strip based on the construction of 100 settlements on both sides of the Green Line within the populated areas in an attempt to encircle these areas, thus forcing their annexation to Zionist settlements. In a report sent by the Security Council in 1979 about settlements in the occupied areas, the following information was given about the form and size of settlements:

(a) There are 133 settlements in the occupied areas, 17 are in Jerusalem, 62 in the West Bank, 29 in the Golan Heights and 25 in the Gaza Strip;

(b) The lands expropriated by Israel constitute 29 per cent of the total area of the West Bank, most of the area of the Golan Heights and 35 per cent of the area of the Gaza Strip;

(c) A great number of settlements were established on individually owned lands and not on public land;

(d) A large number of settlements were of a military nature, controlled either directly by the army or by youth of military age.

The Sharon project for settlement

The Zionist Committee for Settlement Planning, which included Nukhaman, Afrat and Sharej, and representatives of other Zionist departments, prepared a comprehensive settlement plan called the "double chain". The plan was based on decreasing the population of the West Bank and the Gaza Strip from 1,200,000 to 50,000 and enclosing them in three small areas in Nablus, Hebron and the Gaza Strip. The Israeli press stated that the project had been presented to Yitzhak Rabin's Government, which had rejected it because it contradicted the Allon plan. It was revived during the Begin Government and was adopted by the Minister of Agriculture, the President of the Settlement Department in the Herut Party, General Sharon. The importance of this project was that it shed light on the Zionist outlook on the future of the occupied areas, which was expressed by various oppressive and terrorist practices against inhabitants of the occupied areas.

The Israeli authorities were not satisfied with breaking into schools and educational institutions and confiscating tens of thousands of dunums, firing guns at demonstrators, wounding and killing numbers of them, expelling national leaders, threatening members of the National Guidance Committee and the Palestine National Front, and further practices of collective punishment, including seizing tens of Palestinian cities, villages and camps. In addition, they organized bloody massacres against the inhabitants and national figures, as in the city of Hebron. Such practices were aimed at terrorizing Palestinian citizens, which made one recall the massacre of Deir Yassin. These disgraceful practices were intended to force the indigenous people to leave its country to make way for the criminal settlement project.

I. ISRAELI SETTLEMENT POLICIES IN THE OCCUPIED ARAB TERRITORIES

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> "Contrary to Israel's allegation that the Jewish settlements [in occupied territories] constituted a private activity on the part of Israeli citizens, it was clear, from the many official statements on the matter, that it was in fact the policy of the Government. Its aim was the Judaization of Palestine through the annexation of [Arab] lands, the expulsion of the Palestinians inhabitants, and the containment and isolation of the remaining Palestinian agglomerations."[1/]

This quotation, in summary, forms the underpinings of Israeli settlement policies in the occupied Arab territories which have the effect of changing the political and legal status, demographic composition and geographical nature of the region. This problem has led to a serious crisis in international relations. The fundamental thrust of that policy, which is government policy, is the colonization of Arab territories that Israel occupied by force. Yet the acquisition of territory by force is inadmissible in international law and the Geneva Conventions on the protection of civilians and property in time of war.

"Settlements" are a euphemism for twentieth century colonies. The "settlers" are colonists. Taken as a whole, the phenomena of Israeli settlements in the occupied Arab territories represent a case of colonialism. This is the premise upon which this brief paper is predicated. In my analysis, I shall refrain from presenting a chronology of how Israel was created and how it came to occupy Arab lands. A historical study of Israeli settlement policy in the stages of occupation is also not attempted here. We would refer those wishing to probe the subject further to the numerous excellent studies under the auspices of the United Nations and/or the Institute for Palestinian Studies.[2/]

The main focus of this study is on analysing Israeli settlement policies in the Arab territories occupied since June 1967. To do this, the paper will attempt to shed light on the process of creating settlements as a manifestation of systematic phased dispossession of the indigenous people. Thereafter, the implications of the settlement policy on the Palestinians are assessed. The concluding section appraises the impact of Israeli settlements policy on contemporary international relations and on world peace and security in particular.

The June 1967 Arab-Israeli war was a watershed in Israeli expansionism by force. During that war the Israeli military forces proceeded to occupy the remaining territory of what was Mandated Palestine (including East Jerusalem) as well as the Sinai region of Egypt and the Golan Heights of the Syrian Arab Republic. After "conquest", military rule was imposed as Israel sought to consolidate its colonization by annexation. By annexation, we mean an illegal act by which a State asserts its sovereignty over a territory previously outside its jurisdiction.

The war had serious implications for the land and people in Palestine. In this cut-throat zero-sum game, what the Israelis gained, the Arabs lost. Indeed, the masterplan of the Zionist movement for the establishment of a Greater Israel was fulfilled.

Prior to the 1967 war, of the estimated total population of 2.7 million Palestinians, about 300,000 lived in Israeli territory, 1 million in the West Bank and 400,000 in Gaza. About half a million Palestinians left their homes during the war, and 1.2 million remained under Israeli control. The remaining 1.5 million Palestinians were forced to become refugees, many for the second time, having first fled in the war of 1948.[3/]

Having occupied Arab territories, the Israelis embarked on a systematic and relentless process of dispossessing the Palestinians of their land and other properties. The illegality and coercive methods by which the Israeli authorities expropriated Arab lands, both private and public, for locating settlements, is no longer in dispute. Several studies, including in particular, the report of the Security Council Commission established under resolution 446 (1977), have concluded accordingly:

> "On the basis of the information received, the Commission is convinced that a number of settlements were established on privately owned land and not only on public land."[4/]

The process of acquiring land for use by Israel in the occupied territories is by and large based on seizure and confiscation. In Israeli thinking, since the occupied territories are its colonies, it is assumed that arbitrary measures to confiscate land are a matter of policy. Spokesmen of the Government including the Prime Minister, have stated publicly that "Israel would never return to the pre-June 1967 frontiers".

Typical in most colonization cases, the process of establishing settlements of colonies with migrants from the metropolitan countries follows occupation. In the case of Israel, however, one should hasten to point out that Jews from all over the world have been lured to settle in occupied Arab territories. This is reminiscent of the massive planting of undesirable migrants in South Africa and elsewhere in the colonial world in the eighteenth century.

The interlocking linkages between Government and non-governmental institutions of the metropolis in formulating and implementing colonist policies have been well known in history. There are of course recognizable variations in intensity that are a reflection of time and space. The Israeli policy is a product of Jewish institutions that were formed at the turn of the century in search of the dream of Eretz Yisrael long before the State of Israel was created in 1948. Chief among these was the transnational World Zionist Organization under Theodor Herzl, which held its first congress in 1897. After the Balfour Declaration in 1917, the establishment of Jewish communities in Mandated Palestine was sponsored, inter alia, by the Palestine Jewish Colonization Association and the Palestine Land Development Company. All these moves have been resisted by the Arab population since.

The settlements policy was given the fullest impetus first with the creation of the State of Israel and second with the occupation of large tracts of Arab territories after the June war. The stage was set for implementation when the two requisites were satisfied.

Since occupation was by military forces, the pre-eminent role of the Israeli military apparatus in the settlements policy must be recognized. It is not surprising, therefore, that it is the Israeli military rulers who pave the way for settlements. It is equally significant that in the present Begin regime, it is Major General Ariel Sharon, the Agriculture Minister, who spearheads the government committee on settlements policy. Sharon recently announced a scheme in which he plans to settle 2 million Jews in the occupied territories in the next two decades.[5]

For analytical purposes, one can identify the vehicles of the settlements policy as the State and its military apparatus, the colonists and transnational Jewish organizations. Thus, the implementation of the programme is a combined operation of the Government with private and public participation. Financing for settlements comes from the Israeli Government and private institutions, both inside and outside Israel.

It should be stressed that there is a general consensus among political groups in Israel in favour of Jewish civilian occupation of the Arab territories. Successive Israeli Governments have pursued this policy with varying degrees of intensity in implementation. The Likud regime took over from where the Mapai had left off.

Israeli rulers appear to hold the view that theirs is a State with shifting and elastic frontiers. Golda Meir once said that "the boundary of Israel is wherever Jews are living, not a line on the map". This view negates all tenets of international law. A State without fixed boundaries does not fulfil the attributes of statehood in international law.

The need to maintain Israel's security has been cited as the rationale for its settlements policy. An appraisal of the policy and its implementation proves otherwise. First and foremost, it has been demonstrated that the settlements policy is not a haphazard venture, rather it is an outgrowth of a careful master plan with its origin in the Zionist organizations. What was required in the implementation therefore was the opportunity to do so. It is not the occupation of Arab lands that created conditions for the settlements policy.

The second major line of argument is that, if Israel was able to protect its frontiers during its formation in 1948 and given the balance of forces in the region, there is no justification that occupation of Arab lands improves its security. Moreover, in modern warfare and particularly in aerial warfare, the extension of Israeli boundaries does not enhance its security. There is, therefore, more to this occupation than the security requirements of the State of Israel.

It is equally instructive to note that Israel has had as its priority the establishment of settlements in the most fertile and/or water-endowed zones of the occupied Arab territories. Statistics show that about 30 per cent of Israel's water supplies come from the occupied territories. The Golan Heights of the Syrian Arab Republic and the Jordan River valley are but a few examples of the most fertile regions that are fully exploited by the settlers. Two Jewish settlements had already been established in the Golan Heights within six months of the termination of hostilities. In 1968, eight settlements were erected in the Golan compared to only three in the other remaining occupied territories.

The exploitation of the land, properties and resources, including water, in the occupied Arab territories, is a key motivation for Israeli occupation. The rationalizations so far advanced by the authorities are merely intended to legitimize the illegal annexation of foreign lands.

In 1967, Israel established five settlement in the occupied territories. By 1979, there were 133 settlements, including 17 in and around Jerusalem, 62 in the West Bank, 29 in the Golan Heights and 25 in the Gaza Strip and Sinai.

Most of the settlements are small clusters of 10 to 30, often perched on hilltops located in a belt a mile or so from neighbouring Arab villages. Others are actual towns with workshops and factories. All are reported to have modern lines of communication including telephones and electricity. They are all equipped militarily to further the objectives of occupation.

Available evidence shows that, when a particular area has been earmarked for a settlement by the authorities, the usual routine has been for Israeli troops to arrive without warning. They demarcate and restrict the area and warn farmers to stay off the land. Often a formal notice is given after the fact which states that the land is needed for military purposes. A few weeks later, after the area has been bulldozed, the soldiers disappear and the stripped land is taken over.

Sometimes the settlers themselves do the expropriation. The settlers also arrogate to themselves the right to expropriate more land in spite of usual protests by Palestinian owners. In the process, both private and public lands are seized in contravention of local laws of land tenure. In total, 27 per cent of the occupied territories have thus far been taken over by Israel for the establishment of settlements.

Grandiose plans have been intensified in Israel to increase and/or expand Jewish settlements in the occupied Arab territories. A reference has already been made to the 20-year plan of Sharon.

The Israeli settlements policy has unleashed major demographic changes in the occupied Arab territories, including Jerusalem. A correlation has been established between the Arab population in the occupied Arab territories. The Security Council Commission discovered that, since 1967, the Arab population had been reduced by 32 per cent in Jerusalem and the West Bank. As to the Golan Heights, 134,000 inhabitants had been expelled leaving only 8,000, i.e., 6 per cent of the local population in the occupied Golan.

The Arabs who remain in the occupied territories, including Jerusalem, are subjected to continuous pressure to emigrate and thereby create more living room for the Israelis. Several Arab homes have been demolished and properties seized. In the case of Jerusalem, attempts are being made to annex that city and transform it into the capital of Israel. These actions by the Israeli authorities have been condemned by the international community. In resolution 476 (1980), adopted by the Security Council on 30 June 1980, the Council reconfirmed its position that "all legislative and administrative measures and actions taken by Israel ... which purport to alter the character and status of the Holy City of Jerusalem have no legal validity and constitute a violation of the [fourth] Geneva Convention ... and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East". Israel was also called upon "to abide by the present and previous Security Council resolutions and to desist forthwith from persisting in the policy and measures affecting the character and status of the Holy City of Jerusalem". It should be recalled that attempts to consolidate Israeli settlement policy has served to mobilize the 39 States members of the Islamic Conference into a position where they have openly stated their commitment to liberate Jerusalem.

In Jerusalem, Israel established permanent settlements. The occupying authorities have also sought to transform that Holy City into the political capital of Israel with all its attendant consequences. In addition, the religious dimensions of the city are being changed constantly. Several ancient but venerated holy Muslim shrines have been demolished, profaned or mined through excavations, which also contravenes the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, of 14 May 1954.[6] On 21 August 1969, the Al-Aqsa Mosque in Jerusalem was a target of arson.

The violations of the basic human rights of the occupied Arab territories have been a subject of repeated condemnation by the United Nations and the international community in general.[7] In pursuit of its colonization policy, coercive methods have been used by Israeli authorities in attempts to impose its rule over the area. The following practices provide an illustrative example of Israeli conduct:

(a) Expulsion and deportation of Palestinians;

(b) Denial of their right of return;

(c) Expropriations of property and destruction of houses;

(d) Mass arrests and ill treatment of civilians;

(e) Interference with religious freedoms and practices and family rights and freedoms;

(f) Ill treatment and torture of persons under detention.

In summary therefore, the Israeli policy of settlements is a denial of the inalienable rights of the Palestinian people. It denies them even protection under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,[9] which states, *inter alia*, that, "the occupying Power shall not deport or transfer parts of its own population into the territory it occupies".

Successive reports of the Committee on the Exercise of the Inalienable Rights of the Palestinian People provide vivid accounts of the abuse of the human rights of the people in the occupied Arab territories. Petitioners who appeared before the United Nations Security Council Commission on the Middle East, established under resolution 446 (1979), during its visit to the area in May 1979, received a monument of evidence of how Israel abuses the human rights of the Palestinians.

Repression in the West Bank has been escalated by the occupying authorities. For example, in May 1980, the Arab Mayor of Hebron, Mr. Qawasmeh, the Mayor of Halhoul, Mr. Mohammad Milhan, and the Sharia Judge of Hebron, were expelled from the occupied territories. Shortly thereafter, assassination attempts were made on the lives of the Arab mayors of Nablus, Ramallah and Al Bireh (see Security Council resolutions 468 (1980), 469 (1980) and 471 (1980)). The mayors were serious wounded in these attacks. Evidence suggests that there is a manifest pattern of resistance evolving on the part of different categories of Palestinians. They reject political arrangements which impose the status of "bantustans" on them as is the case in South Africa. Conformity to permanent occupation and domination which the "bantustans" policy entails is considered unacceptable, hence the confrontation.

The problem has been compounded in that within a few days, it was announced from Tel Aviv that the Prime Minister's Office was to be moved to Jerusalem. Mr. Begin has repeatedly referred to Jerusalem as "the eternal capital of Israel". This position defies the consensus view of the international community which upholds the pre-1967 status of the Holy City of Jerusalem.

As has been stated, Israel maintains its colonization by force. The occupied Arab territories are ruled under the martial law of the military authorities. Palestinians have not reacted passively to this imposition of alien rule. They have sought to correct the situation by reclaiming their inalienable rights, including the right to return to their homes.

The international community has recognized the rights of the Palestinians through several resolutions of the General Assembly such as resolution 2535 B (XXIV) of 10 December 1969. These rights include the right to self-determination, national independence and sovereignty.

In the occupied Arab territories, Israel has deprived the local nationals of any meaningful participation in the political system. The settlement policy is also intended to create a *fait accompli*. An attempt is being made to divert attention from the crux of the matter, which is the restoration of the inalienable rights of the Palestinian people to independence.

The Israeli policy of seeking to change the status, geography, nature and the demographic composition of the occupied Arab territories has been determined by the international community as constituting a threat to international peace and security. Above all, the settlements policy violates the inalienable rights of the Palestinian people which they themselves are striving to uphold and to restore.

States members of the international community that oppose all forms of colonialism have also intensified their opposition to the settlements policy. Israel has been repeatedly called upon to desist from changing the legal status, geographical nature and the demographic composition of the occupied Arab territories.

Yet Israel continues to defy the international community as the policy of settlements is widened in scope daily. This smacks of confrontation and not conciliation. This is the position which I stated during the Security Council's consideration of the situation in the occupied Arab territories on 23 May 1980:

> "It is now a fact that the Israeli regime is by its actions bent on provoking a catastrophe in the Middle East by continuing to pursue its provocative and aggressive policies of conquest, confrontation and defiance. Our simple advice is for them to know that the only way in which Israel can secure a peaceful future is through conciliation and justice."

If we subscribe to the viewpoint that the question of Palestine is at the heart of the Middle East problem and consequently there can be no solution in the Middle East that does not fully take into account the legitimate aspirations of the Palestinian people, then it is evident that the settlements policy is not conducive to the resolution of the Middle East problem. It should be added that since Israel also occupied Syrian territories, the Syrian Arab Republic may not be expected to acquiesce to the status quo.

Inside the occupied Arab territories, there has been an escalation in the confrontation with Israeli occupying authorities. The tide of violence has been on the increase. Here again, there is a probability of escalation in the conflict that could spill over into the broader Middle East crisis.

The author also fully subscribes to the danger signals that were highlighted in one of the conclusions of the Security Council Commission in 1979, which states:

> "Unfortunately, the Commission has also perceived a deep sense of despair and helplessness, primarily among Palestinian refugees. This stems from the realization that Israel's policy with regard to the occupied Arab territories and more particularly its policy of continuing to establish more settlements is unabated and undaunted either by United Nations decisions or any other external factor. The Commission would like to state clearly in that regard that in the course of its various meetings it felt that this settlement policy was widely regarded as a most negative factor in the achievement of peace in the area both by the refugees themselves and all those who support their cause, including the neighbouring Governments for which that policy generates at national levels economic and social problems of grave consequences."[10]

The international community has a duty to prevent the serious conflict arising from Israeli settlement policies from escalating and deteriorating any further. It is recognized that breaking the status quo required arduous efforts, but it is nevertheless evident that this can be done because change is inevitable. Who could have imagined a century ago that empires could die?

The international community, and the United Nations in particular, have the responsibility to ensure that the Middle East problem is resolved through the recognition of the inalienable rights of the Palestinian people. To this end, the international community should prevail on Israel to withdraw from all occupied Arab territories.

Notes

1/ See report of the Security Council Commission established under resolution 446 (1979), *Official Records of the Security Council, Thirty-fourth Year, Supplement for July, August and September*, document S/13450, para. 204.

2/ See, for instance, the 1980 study entitled "Acquisition of Land in Palestine", prepared for, and under the guidance of, the Committee on the Exercise of the Inalienable Rights of the Palestinian People.

3/ "The Question of Palestine", prepared for, and under the guidance of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 1979, p. 25.

4/ Document S/13450, para. 215.

5/ *The Jerusalem Post*, September 1977.

6/ United Nations, *Treaty Series*, vol. 249, No. 3511.

7/ For a concise but helpful view see, *The International Status of the Palestinian People*, prepared for, and under the guidance of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, United Nations, New York, 1979.

8/ United Nations, *Treaty Series*, vol. 75, No. 973.

9/ *Official Records of the Security Council, Thirty-fourth Year, Supplement for July, August and September 1979*, document S/13450/Add.1, annex. II.

10/ *Ibid*., para. 228.

J. ZIONIST SETTLEMENT IDEOLOGY AND ITS RAMIFICATIONS FOR THE PALESTINIAN PEOPLE

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The settlement policy of Israel is not a concise subject confined to the territories occupied during the war of 1967. Neither is it a process which began only 13 years ago. The issue of settlement has been at the heart of the political Zionist movement since its inception and has been a central subject of debate within zionism ever since. This fundamental nature of the settlement issue has caused it to be one of the determining factors of the various political streams in the Zionist movement and subsequently the Israeli State. It is intrinsically linked to other key questions such as religion and land. Settlement policy played - and continues to play - a major role in the Zionist confrontation with, and dispossession of, the Palestinian people.[1]

Zionist settlement over the years has taken its toll of Palestinian lives and land. Even a cursory examination reveals that the impact has been staggering. While it is extremely important to record each dunam lost, each well gone dry, these physical indicators do not describe the full dimensions of the question of settlements. Political forces and personalities in Israel have alternately supported, criticized and manipulated the settlements. Political forces and personalities in Israel have alternately supported, criticized and manipulated the settlements. Similarly the settlers have played a major role in shaping the political fabric of Israel. Since the "conquest of the land" has long been intrinsic to political zionism, the settlers engaged in that process enjoy a particular leverage in relation to their fellow Zionists. The Zionist "minimalists" have historically stressed the consolidation of a Jewish State on the territory under their control while the "maximalists" have called for a Greater Israel based on the maximum extent of the ancient Hebrew kingdoms. The relation between these minimalist and maximalist Zionist camps has not always been amicable. The differences, however, have more often been tactical than strategic. The minimalist emphasis may often be on the need for pragmatism, while the maximalist riposte emphasizes inherent rights (often God-given) while even the minimalist ostensibly "knows to be true". This political dynamic lends a veneer of contention to a process of settlement which has inexorably proceeded.

The extreme maximalist elements, historically, have often not enjoyed the favour of the Government in power, yet they have always possessed a tremendous means to go outside the law to embarrass and confront the ruling Powers. On some occasions they have proven merely to be a stalking horse for the Government itself. On others, the dominant Powers have faced them down, e.g., the sinking of the Irgun munitions ship Altalena on orders of David Ben-Gurion. This action was deemed necessary for the consolidation of power. State control now appears increasingly threatened.

The settlement movement in the territories occupied in 1967 manifests much of the maximalist sentiment. Not only has it displayed enormous influence over mainstream Israeli politics, it has served as a spawning ground for even more extremist elements. The expansionist Gush Emunim movement may today only control a minority of the settlements in the occupied territories, yet it has already been superseded on the right by the Tehiya (Renaissance) Party and the Kach (Thus) of Meir Kahane. The latter has been linked in the press with the two soldiers and the Yeshiva student implicated in the plot to blow up the Al-Aqsa mosque and other Muslim and Christian institutions. Kach is probably not associated with the emergent Zionist paramilitary group calling itself the "Sons of Zion", which claimed credit for the attempted assassinations of three Palestinian mayors. While the identities of these groups remain somewhat vague and their material sources and friends are yet to be established, their ideological roots are evident.

In the wake of the 1967 war, the Israeli Government almost immediately began to settle the occupied territories. At that point the rationale was basically twofold. In the case of Jerusalem and its environs the claim of historic rights was primary and settlement was facilitated by outright annexation of the eastern part of the city. On the outskirts of Jerusalem, in the Jordan Valley, the Golan Heights, Rafiah Salient and Sinai, the justification put forth was that of security.

During the earlier years of settlement in the 1967 occupied territories, the security argument was the most prevalent. The validity of this justification was, however, seriously undermined during the 1973 war when Israel had to use valuable time and manpower to evacuate the settlements on the Golan Heights. Hirsh Goodman, the military correspondent of the Jerusalem Post, concedes the inconsistencies of this argument:

> "The feasibility of settlements as a function of defence seems doubtful. On analysis, one suspects that they actually hamper the smooth conduct of war, and the country's ability to deal cohesively with

> a frontal attack ... Moreover, planting civilian populations close to the border counteracts all those arguments we have heard for so long about the danger of having Netanya and Tel Aviv 'just nine miles from the frontier'."[2]

Goodman goes on to point out that the Gush Emunim settlement of Ofra "is not high on the list of defence priorities right now. Nor is the establishment of a new Jewish ghetto in Hebron ...". It is almost certain that the security argument for settlement would be heard less often were it not for the credibility it has sustained in the West and in the United States in particular.

The argument that Israel has historical rights in the occupied territories, on the West Bank in particular, proves far more of an impediment to peace in the Middle East than the question of security. It cuts across party lines and across the religious/secular division in Israel. While contemporary analysts are correct in pointing out that the Labour Government concentrated West Bank settlement in the Jordan Valley and the eastern slope of the highlands, it should not be overlooked that they also facilitated the construction of Kiryat Arba near Hebron. As was noted in Ma'ariv over a year ago:

> "The leaders of Gush Emunim have not forgotten the material and moral aid they have received from Yigal Allon, then Deputy Prime Minister, when they settled in Hebron, nor the aid given to them by the Chairman of the Labour Party, S. Peres, while he was the Minister of Defence in Rabin's Government; there would have been no Ofra, the first settlement in Samaria, without his help. Gush Emunim now misses those days. It would like to see the Labour in power again and Herut in opposition. The veterans of Gush Emunim think that this is the best political formula for their success in achieving their settlement aims."[3]

Indeed, in denouncing the United Nations Security Council vote last March condemning Israeli settlement, Shimon Peres said that no responsible body in Israel would agree to the Council's demand for dismantling the settlements in the territories.[4] Even those whose main motivation for establishing settlements may have been security are reluctant to permit the establishment of a precedent for their withdrawal which would challenge the historical rights argument. This objection was even raised in the context of the dismantling of the Sinai settlement as part of the Israeli-Egyptian peace process.

The historical rights argument is premised upon the right of modern Zionists to establish a presence anywhere in "Eretz Israel". The extent of this claim varies according to the particular political positions of various trends within the Zionist movement. Begin's Herut Party has never explicitly abandoned claim to the East Bank of the Jordan, for instance. Since the Hebrew Kingdoms, on which the claims are based, are historically significant not merely for national reasons but for religious reasons which dwarf their limited geographic and temporal extent, the modern claims intrinsically have had a religious character to them.

As a result of that element of divine ordination inherent in many religions, the admixture of religion and nationalism generally have proven volatile and often oppressive. The perversion of Christianity used to justify apartheid in South Africa is an outstanding example. Similarly, in the United States the doctrine of "Manifest Destiny" was propounded to justify the settlement of western North America at the expense of its native peoples. The world-view of the Gush Emunim is somewhat analogous to both, the undisputed previous existence of the Hebrew Kingdoms notwithstanding.

The Gush Emunim emerged from the National Religious Party's Bnei Akiva youth movement and yeshivot hesder. These "arrangement yeshivas" are religious seminaries the students of which also do army service.[5] Perhaps the single most influential person inspiring the Gush Emunim world-view is Rabbi Tzvi Yehuda Kook. David Shaham, writing in Yediot Ahronoth, describes him thus:

> "The politics of Rabbi Tzvi Yehuda Kook are consistent, extremist, uncompromising and concentrated on a single issue: the right of the Jewish people to sovereignty over every foot of the Land of Israel. Absolute sovereignty, with no imposed limitations. 'From a perspective of national sovereignty,' he says, 'the country belongs to us.' He defines himself as an extreme maximalist. He did not join the 'Movement for the Entire Land of Israel' because in his judgement, Transjordan, the Golan, the Bashan (The Jebel Druze region in Syria), are all part of the Land of Israel. ... In a public statement he defined the right as follows: 'The entire country is ours -- there is no Arab land here, only Jewish lands, the eternal lands of our forefathers -- and that land, in its original Biblical borders, belongs to the sovereignty of the Jewish people'."[6]

The conquests of the 1967 war were to Rabbi Kook a sign that God was fulfilling his ancient promises to the Jewish people.

It is extremely important to note here that such extreme theistic nationalism is not universal to Orthodox Judaism whose breadth of belief also includes the Neturei Karta to whom political zionism is an anathema. Other Orthodox scholars such as Yeshayahu Leibowitz, a specialist in Jewish law, who holds chairs in biochemistry and philosophy at Hebrew University, explain that:

> "Jews of every generation were willing to die for observance of the Torah, but not for settling in the land of Israel ... Gush Emunim is religious like the Israelites who danced around the golden calf were religious: they were idolaters. They worship the state and it borders, the cheapest kind of religion."[7]

Ever since 1967 Israeli politics has been confronted with the question of what to do with the occupied territories and the Palestinians who live in them. Withdrawal from the territories was ruled out on both "security" and "historical rights" grounds. Yet holding onto the territories with their large Palestinian population implied an assimilation of Palestinians which would dilute the Zionist goal of a "Jewish State". Menachem Begin's autonomy plan is only the latest in a series of holding actions intended to maintain Israeli control until a means can be found to resolve the paradox. The Palestinian people, however, are adamant in their resistance to further dispossession.

This question, though, gives only slight pause to the ideologues of the Gush Emunim. To them the Palestinians are merely modern manifestations of the Canaanites and Amalekites. Against the Amalekites there was a command of revenge to kill every man, woman and child. As for the Canaanites, they were given three options: to stay under Israel's terms, to leave, or to make war. In an article entitled "The real-politik of our sages", published by the Gush Emunim "Department of Information", Dr. Israel Eldad applies these to the Palestinians:

> "One way out given to the Canaanites was to accept Israel's terms. No autonomy but then no intolerance either ... The second method was to leave ... This idea in itself is not new to Zionism. Israel Zangwill suggested it in 1920, the British put it forward in the Peel Report of 1937 as did Avraham Sharon and Avraham Stern in the '40s. Official Zionists opposed the plan due to moral hesitations (not a Jewish morality but one influenced by liberal emancipation and in continuation of their naive belief that the Arabs will agree to coexistence if we succeed in convincing them that Zionism is beneficial for them ... If the two foregoing are not acceptable - let it be as it may. There is no fourth solution of 'autonomy' in our sovereign area."[8]

Elsewhere in this article, Dr. Eldad advocates the creation of economic distress in the West Bank and Gaza to bring about large scale immigration, expulsion being permissible only in time of warfare. Almost as disturbing as the position he advocates is Dr. Eldad's peculiar definition of Jewish morality.

Similar thoughts were voices less pretentiously by the Gush Emunim settlers in Ofra when they were interviewed by The Jerusalem Post's Robert Rosenberg. Aharon Halamish, head of security, has a simple, if cynical, plan: "We simply don't give them jobs. If they didn't have work here, they wouldn't prosper and wouldn't want to stay. We could even pay them to leave". In the words of Rachel Cohen, another settler, "After all there are no Palestinian people. We invented them, but they really don't exist".[9]

What is distinctive about the Gush Emunim ideology is that their intention is not merely to colonize the occupied territories through building in areas where the Palestinian population is thinnest. On the contrary, they wish to confront and eventually supplant the Palestinians. Yosef Goell, summarizing the views of Benny Katzover, a leading Gush Emunim activist, makes this clear:

> "It is not the specific site of Jebel Kabir or of Rujeib that is important; the proximity to Nablus-Shechem is the point. It is essential and urgent to establish as widespread a Jewish presence in Judea and Samaria as possible; and the closer this presence is to the large concentrations of Arab population in these territories, the better."[10]

This fanatical expansionism of the Gush Emunim would be of limited concern were it restricted to an isolated splinter group. Unfortunately, the Gush Emunim, despite their small numbers, are not isolated. Their ideas enjoy currency far beyond their membership and they have friends in high places. The politics of General Ariel Sharon, the Minister of Agriculture and Chairman of the Ministerial Committee on Settlement, are well known. His extremism is matched by that of Dr. Aharon Davidi, former commanding officer of the paratroopers and lecturer in geography at Tel Aviv University. The Ashkenazi Chief Rabbi of Israel, Shlomo Goren, in a speech at Kiryat Arba, went so far as to "express his grief that that Arabs of Hebron did not flee towards the Jordan River". He was greeted with applause.[11]

The most tangible evidence of high level political support for the Gush Emunim philosophy is to be found in the pattern of existing settlements. As previously mentioned, the Labor Government concentrated settlements in the Jordan

Valley and on the eastern side of the West Bank highlands. The objectives of these belts, as described in United Nations Security Council document S/13132, annex II, are to sever the West Bank Palestinians from East Jordan and to encircle them by creating a cordon on the eastern side. The settlement blocs surrounding Jerusalem are intended and to psychologically ghettoize them. The latter construction was carried out despite aesthetic and environmental objections of some Israeli city planners. So-called security reasons were used to override the opposition. As also noted, the Labor Government condoned settlements such as Kiryat Arba and Ofra, which did not conform to their stated guidelines. This is again indicative of the broad and non-partisan support that exists for Gush Emunim style confrontative settlement.

The Likud Government, with its more explicit intention of colonizing the occupied territories, has since May 1977 proceeded to build settlements along the length of the western highlands of the West Bank. As the aforementioned Security Council document notes, the strategic objective of these colonies is to prevent the physical development of the Palestinian community to the west and to divide the populated northern part of the West Bank into two smaller areas, thus further containing and ghettoizing the Palestinian people.

An additional aspect of the scheme has been the construction of a series of roads on the West Bank which compartmentalize the Palestinian villages and towns. The roads are constructed so as to facilitate Israeli control of the region. They are comparable on a grander scale to the razing and reconstruction in Gaza carried out subsequent to 1967 in order to permit greater Israeli mobility in the effort to combat Palestinian resistance.

The most flagrant statement of support for the plan to penetrate the areas of heavy Palestinian population came in October 1978 when the World Zionist Organization's Department for Rural Settlement published its "Master Plan for the Development of Settlement in Judea and Samaria, 1979-1983".[12] Often referred to as the "Drobles Plan" after its primary author, it calls for the establishment of 46 new settlements to be inhabited by 16,000 families and the thickening of existing settlements by the addition of 11,000 families - all within five years' time. The projected cost of this comes to a staggering IL54 million. The proposed allocation of such an amount for settlement on the West Bank alone is extremely demonstrative of the priorities of the World Zionist Organization. All this came at a time when inflation in Israel was running over 100 per cent annually and when only a fraction of this money was going toward housing for the numerous Israeli Jews who live in slum conditions. The recent squatter camp protest by Jews of Eastern origin was named Ohel Moreh to contrast with the Gush Emunim settlement of Elon Moreh.

The "Drobles Plan" states clearly that "the disposition of settlements must be carried out not only around the settlements of the minorities, but also in between them, this in accordance with the settlement policy adopted in Galilee and in other parts of the country". This passage is important not only for the distortion of language which takes place. Rather than refer to Palestinians, the plan terms the populace "minorities", despite the fact that Palestinians were the overwhelming majority of the population of the West Bank. Drobles might respond that the plan referred to the population ratios of the whole of "Eretz Israel". This would only further compound the attempt to deny that the territories were occupied. Such linguistic euphemisms and rewriting of history have always been part of colonialism. From the coining of the Zionist slogan "A land without people for a people without land", on through the Balfour Declaration's reference to the Palestinian majority as "existing non-Jewish communities in Palestine", the Palestinian people have had to confront and combat such obfuscation, particularly in the Western media.

The first principle guiding the "Drobles Plan" reads: "Settlement throughout the entire land of Israel is for security and by right. A strip of settlements at strategic sites enhances both internal and external security alike, as well as making concrete and realizing our right to Eretz Israel". Not only does this embody both the security and the historic rights arguments, it acknowledges the need for "internal" security. Thus it betrays the efforts of the Israeli Government to characterize the resistance of the Palestinians as an external phenomenon. It also inherently acknowledges that counter-insurgence and repression are among the objectives of the settlements.

The battleline between the Gush Emunim and the government bureaucracy now is drawn particularly on the question of whether privately-held Arab land may be expropriated for Jewish settlement even if this is not necessary for security reasons. The focus of this debate is the decision last fall of the High Court of Justice of Israel that the settlement of Elon Moreh had to be relocated from Rejeib to Jebel Kabir (though the latter is still proximate to Nablus). The Jerusalem Post describes the Gush Emunim position: "The seizure of small plots of Arab land at that site was justified by the right of Jews to settle throughout Judea and Samaria, they said, and no security mumbo-jumbo legalisms were necessary to sanctify that right".[13]

The Gush Emunim is forthright in its desire to dispossess the Palestinians; the Government's actions belie any pretension to protect Palestinian land rights. To date approximately one third of the land on the West Bank has come under the control of the Israeli Government.[14] The Israeli State has gained this much land through a variety of means. A portion was confiscated on security grounds, often dubious. Other lands were taken over on the grounds that they were State lands rather than privately-held Palestinian property. This has been effected through a manipulation of the system of land tenure existing prior to 1967. Three broad categories of land holdings were common. Privately-held land for which the owner possessed a clear title is termed "*mulk*" land. Communally-held land, often cultivated by the same family over generations, is called "*miri*" land and is registered with the Jordanian Ministry of Finance for tax purposes. Finally, land successively under the title of the Ottoman Sultan, British Mandate and Jordanian Governments (which again has been under cultivation for generations) is "*jiflik*" land. In the last two cases clear title often may not exist. Israeli demands for legal deeds of ownership and the difficult and costly litigation necessary to prove such holdings have facilitated dispossession of West Bank Palestinian farmers. A final means of confiscation is through the notorious absentee property laws. Persons not residing on their lands at the time of occupation were termed "absentees" and the land reverted to the State as "Custodian for absentee property". Similar procedures have been used extensively to dispossess Palestinians in Israel itself.[15/]

Thus the State of Israel itself is carrying out an extensive and multifaceted takeover of West Bank lands which differs from that urged by the Gush Emunim less in its substance than in its pragmatic avoidance - for the time being - of flagrant confrontation. In November 1979 the Ministerial Committee on Settlement passed a settlement budget of IL150 billion, nearly half the entire annual State budget.[16/] Despite the massive investment and settlement campaign, the Government has fallen far short of the projections of the "Drobles Plan". It is finding it increasingly difficult to recruit willing settlers even with the various subsidies and benefits proffered. The fact that this land is *not* needed in order to accommodate an expanding population but is being conquered for almost "mystical" reasons is especially foreboding and revelatory of the aforementioned ideological nature of the settlement movement. It remains to be seen what contradictions may arise should there be an insufficient number of settlers to realize the political goals of the settlement policy. Since some of the deterrent to volunteers stems from the hostility of the Palestinians to these would-be colonizers, the Government may feel driven, for this reason as well, to step up the repression in the occupied territories, in an attempt to crush the opposition.

The most disturbing recent developments in the occupied territories are of a military nature. One of the key figures involved in this aspect is Chief-of-Staff Rafael Eitan. With the resignation of Defense Minister Ezer Weizman, Eitan - never noted for his political acumen - has been thrust into an ever more important role. When Menachem Begin assumed the defence portfolio (and refused to promote Deputy Defence Minister Mordechai Zipori), he effectively allowed increased policy formulation to pass on to his chief-of-staff. Eitan had already stirred up a great deal of controversy with the leniency he had shown in the reduction of sentences of Lederman, Pinto, and Sadeh, all of whom had been convicted of killing innocent Arabs. His sympathy to the Gush Emunim has been overt as has his desire to retain the West Bank and Gaza. Eitan considers each settlement a "confrontative settlement" and has restructured the reserve duty of settlers in a foreboding fashion. Rather than serving generally in the Israeli Defence Forces, they now are organized in a framework of "area defence". Thus they serve in the occupied territories particularly and often even in their own immediate vicinity of residence. For example, the Ramallah area is policed primarily by settlers from Ofra, Beit Horon and Beit El. Israeli journalist Yehuda Litani reports that:

> "A security source dealing with these matters claims that 'they are the best soldiers for this task'. He says that the settlers have strong discipline and most important - motivation. For them 'a roadblock is a roadblock and a search is a search'. ... Security sources think that the Area Defence ... cannot be called 'a private army'. Security sources and the settlers deny the existence of a private army, but the given data shows that the settlers have the infrastructure, prepared by the army. There is no need for underground organization. When the Governor of Ramallah demanded the arms back from the settlers from Ofra following their 'police action' last year, the settlers simply refused. This proved that in critical times the settlers and not the army dictate their will."[17/]

Even should the settlers function as a private army, it is unlikely to disturb the Chief-of-Staff who recently made a statement that "there was nothing new or particularly worrisome in having a private army, almost certainly Jewish, operating separately from his own".[18/]

His words are echoed by another Rafael Eitan, the advisor to the Prime Minister on the "War against terror", when he urged,

> "that every Israeli who enters the territories, and even the Old City of Jerusalem, should carry arms and know how to use them. ... In my judgement more Israeli civilians must be allowed to carry weapons all the time. Some argue that such a state of affairs will be exploited for the worst purposes. My reply: already hundreds of thousands of guns are in the hands of IDF personnel, the police and the Israeli civilian sector. An addition of several thousand weapons more will not change matters good or bad in this respect ..."[19/]

In stating that there was nothing new about a private army, Chief-of-Staff Eitan could have been speaking historically of the various Zionist paramilitary troops active during the 1940s. His remark, however, is accurate in a contemporary context as well. In May of this year The Jerusalem Post was told that "West Bank settlers are preparing to fight the Arab terrorists with or without the army's help. ... Settlement leaders have decided to form 'regional security committees' which will obtain arms, train settlers and collect information on Arab riots, stone-throwing and incitement". Despite official statements that settler sources indicated that they would cooperate with the authorities, "well-informed settler sources indicated they would act if the army should be curbed by political factors".[20] Some of the settlers, in order to counteract what they feel to be hostile media coverage, are even exploring the legalities of creating a private broadcasting station for the West Bank.[21]

The extent to which the West Bank settlers have been taking the law into their own hands has reached such great proportions that even the Western media can no longer ignore it. To merely record the incidents of harassment and violence inflicted upon the citizens of Hebron alone by the settlers of Kiryat Arba would take a far longer paper than this. Some of the Israeli press have quite appropriately termed such attacks pogroms.[22]

The sympathy of the military authorities for such activities has been demonstrably evidenced by the leniency they have shown towards the perpetrators. In the case of months-old incidents, the fact that no suspects have been apprehended is not easily explained. In Ha'aretz, Zeev Shif notes the reluctance of the responsible authorities to assiduously investigate the attempted assassinations of the mayors for fear it would lead to established political quarters.[23]

What is not so readily apparent is the potential which confrontative settlement, area defence forces, regional security committees and pogroms hold for bringing about a disintegration within the Israeli military. The settlers, through their overt vigilante actions, have done much to raise the level of violence in the occupied territories. Through their demagogic rhetoric and their pogroms, the settler movement - and the Gush Emunim in particular - have helped to legitimize and spawn the underground organizations which are escalating the violence in the occupied territories. As Newsweek put it, "Violence on the West Bank usually meets with little retribution from the Israeli establishment. For years, officials have allowed Gush Emunim bullies to attack Arabs, and Kahane and his crew seem to enjoy the same prerogatives".[24]

The most tragic attack by an underground group so far has been the maiming of Mayor Karim Khalaf of Ramallah and Mayor Bassam al-Shakaa of Nablus. These terrorist attacks, which occurred almost simultaneously with others in Hebron and El-Bireh, were not isolated incidents. As Mayor al-Shakaa said from his hospital bed:

> "This is another part in the chain of acts of the authorities who want to force upon us the autonomy conspiracy and the Camp David Agreements. It is natural that the authorities won't listen to any call for peace and recognition of the Palestinian people and their national rights. Like any other aggressive state they slip into oppression and terror. Don't forget: the bomb in my car was preceded by the killing of a student in Anabtah on May the first by the military governor of Tulkarm. Later he visited the father of the dead student and told him: 'I'm sorry that it was your son that was killed; the one that should have been killed was the son of Bassam al-Shakaa and the son of Hilmi Hanoun' (the Mayor of Tulkarm)."[25]

The role which Mayor al-Shakaa ascribes to the Israeli authorities in both these attacks should not be overlooked. Given the thorough surveillance of the West Bank mayors, it is hard to imagine how such well-planned attacks could have been carried out without the collusion of the military authorities.

As much an indicator of the rising lawlessness in Israeli society as the attacks themselves are the public responses made to them. Although the Begin Government may have formally denounced the terror, various public figures have been far more ambivalent in their remarks.

Yossi Dayan, Meir Kahane's deputy in the Kach Movement, expressed enthusiasm for the attacks and was sure they were done by "good Jews". He noted that "apparently the underground continues to function without him (Meir Kahane)".[26] The Gush Emunim Secretary of Kiryat Arba, Yossi Weiner, said, "I can't say I'm sad. Until yesterday, we were the ones who had to guard ourselves, to watch out for stones and Molotov cocktails when we walked along the street. The time has come for the Arabs to be afraid too".[27] One of the leaders of the Gush Emunim, Rabbi Moshe Levinger, said that he felt "safer" after the attempts to assassinate the mayors and that he felt an "understanding" for the men who did it.[28] Similar thoughts were echoed at higher levels. Ha'aretz reported that "MK*" Rabbi Haim Druckman (National Religious Party) expressed regret concerning the terror, but noted that the victims were enemies of Israel, and quoted the biblical, 'May all your enemies perish thus'. He also said that he would be terribly saddened if they were to die a natural death".[29] Although some of his colleagues rebuked him for these comments, the National Religious Party affiliated newspaper Hatzofeh was not above putting out the scam that "the attackers should be sought among the PLO ...".[30]

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*Member of the Knesset.

Apparently there are at least two Zionist underground groups operating in the occupied territories: the "Sons of Zion" and another connected to Meir Kahane's Kach party. Newsweek distinguishes between the two: "The membership of the Sons of Zion remains something of a mystery, though it appears to be small, highly professional, well-educated and native. Kahane's Kach, on the other hand, is seen as a dumping ground for young thugs. Some of them never bother to learn Hebrew and they often return home after a few months of hell-raising on the West Bank".[31]

Also claiming responsibility for the attacks on the mayors is a group calling itself "Terror against Terror" (in Hebrew the acronym is TNT). Whether this group is identical to the "Sons of Zion" remains to be seen. However, in a Ha'aretz poll asking whether they approved of the acts of "Terror against Terror", 36.6 per cent of the Israeli polled said yes.[32] The majority of Israelis may not at this time openly condone such flagrantly illegal actions yet the magnitude of those that do is quite sufficient to sustain a great deal of unlawful activity. The underground will find a great deal of sympathy and support, especially among the settlers in the occupied territories.

Even more incredible than the attacks upon the mayors are the potential consequences of the plot to blow up the Al-Aqsa Mosque. The intention of this scheme is not the mere physical or even symbolic destruction of the Mosque. Such an action would quite probably have precipitated a major conflict in the Middle East. From the point of view of the plotters, just such a war is needed to expedite the expulsion of the bulk of the Palestinian population in the occupied territories. Kahane and the Gush Emunim have been explicit in their advocacy of such an expulsion. In the words of Ashkenazi Chief Rabbi Goren, "Not only Kiryat Arba but Hebron must be a Jewish city".[33]

Most ominous is the recent warning sounded by former military intelligence chief General (Res.) Aharon Yariv in a speech recently at Hebrew University in Jerusalem. He stated that some people already "hope to exploit a situation of war to expel 7,000/8,000 Arabs ... things are being said to this effect, and the means are even being prepared".[34]

The problem goes well beyond that of fringe groups, as Amnon Kepeliuk explains:

> "Rabbi Kahane is not the problem. He and his gang can easily be taken care of (why not expel him to the U.S.A. for example?); the problem is Gush Emunim and their supporters in the Government and the army. As long as they are able to force their wish on everyone the decline will continue. Every new settler in the West Bank is a piece of additional dynamite. Today we already know that the settlers or many of them are driving towards a situation in which the expulsion of the Palestinian inhabitants from the territories will turn from a nightmare into a terrible reality."[35]

These plots and provocations are not taking place in a political vacuum. Over the last several months the Israeli press has begun to carry articles warning of creeping fascism.

One indication is the Tehiya (or Renaissance) Party which many of the leaders of the Gush Emunim had a role in founding. It was created due to dissatisfaction with the Herut and National Religious Party positions on settlement. The ideology of Tehiya is one of mystical nationalism and the rhetoric has led some Israeli journalists to compare it with European fascist movements.[36]

Amnon Kapeliuk, in an insightful article written six months prior to the attack on the Palestinian mayors, notes several worrisome trends: "... the growing activities of the fanatic religious Gush Emunim movement; the positions taken by Minister of Agriculture General Sharon; the foundation of the fascist party Hatehiya, etc. ...".[37] Sharon recently expressed the opinion that security in his eyes was above constitution[38] (something Israel does not even have). Begin himself confided to colleagues that he would not appoint Sharon Defence Minister because "He would be liable to put tanks around my office". Whatever the wryness of the Prime Minister's comment, the politics of such highly placed officials as Sharon trouble many Israelis.

Throughout the history of the State of Israel, there have been outbreaks of extralegal and illegal activities. Almost invariably these have been a result of actions of the extreme right wing of the Zionist camp. The policies of Begin's own Herut Party during the formation and early years of the State clearly fit this category.[39] This is why Ben-Gurion confronted them over the Altalena. Often the right has used such tactics to gain disproportionate leverage over policy formation. They have succeeded in achieving this influence through their abilities to manipulate the political and religious fundamentals of Zionist ideology. Within zionism the only definitive answers to such key questions as - What are the final borders of Israel? Who has more right to the land? Who is a Jew in the eyes of the State? - have come from those relying upon religious formulae. Those with more universalist religious interpretations or more liberal political analysis have not succeeded in putting forward alternatives capable of neutralizing the maximalist arguments. They respond weakly when faced with the question: If history and the Bible entitled us to Haifa, how much more are we entitled to Hebron? Or also the correlative: If we abandon our rights and withdraw from Hebron, will we not be forced to withdraw from Haifa?

Virtually all factions within the Zionist movement, in their effort to create the State of Israel, accepted and used - at least in a limited fashion - the historical and religious claims to the land. As a result, the maximalist position has an element of "truth" to it which the moderates are seldom prepared to deny or refute. While in times of relative peace and security, pragmatism may retard the expansionist and exclusivist elements of zionism, in times of stress and disorder the extremists gain in strength.

At present, the contradictions of settler colonialism are catching up with Israel. Occupation and democracy (even for the settler occupation) do not mix. The requirements of defence and settlement are placing an enormous strain on an economy which has never been self-reliant. The inability to resolve the political contradictions latent in zionism and the ensuing economic hardship are already evoking calls for greater authoritarianism. The editor-in-chief of the widely read Yediot Aharonot commented last September:

> "If we cannot obtain economic independence under a democratic regime, we will have to opt for a less democratic rule, provided it is strong enough and firm enough to assure our survival, because our existence is more important than the individual freedom of each one of us."[40]

Not only does he call for a more authoritarian regime, he worries lest it not be "strong enough and firm enough". MK Haim Druckman candidly remarked of late that the unity of Eretz Israel is more important than the democracy of do-gooders.[41] Amnon Kapeliuk describes the danger:

> "Democratic principles are the first to suffer from this crisis atmosphere. Certain quarters increasingly flout democratic laws in the name of what they call their 'idealism'. They consider themselves representatives of a 'divine authority'. Their nationalist ideology, coloured by religious fanaticism, consists of an unshakable determination to annex officially and definitively all the Arab territories in the region occupied since 1967 ... The religious authorities almost as a body provide moral support and a 'religious cover' to the ideology and methods of the extreme right-wing nationalist groups. We have not heard of a single rabbi who, in regard to Israeli occupation of the occupied territories, has condemned or even mentioned the immoral aspect of the domination of one people by another."[42]

Dissident Israelis may someday find themselves living under the same political oppression as their Palestinian neighbours. A countervailing force to the maximalists has yet to coalesce in Israel. The "Peace Now" movement is neither ready to respond to the right with the extralegal tactics of the Gush Emunim nor is it capable of manipulating the historical imperatives of zionism for its own ends. Even should the Labor Party defeat Likud in the next election, it is likely to find itself politically hamstrung by the right. In the past Labor has shown itself no more inclined toward resolving the inherent political dilemma of living with the Palestinians than has the Likud. It is unlikely that any new Government will break with the past sufficiently to come to grips with the right of the Palestinian people to self-determination, which is an obvious prerequisite to peace.

The Palestinians in the occupied territories, already the victims of creeping expansionism and expropriation, must prepare themselves for another danger emanating from the settler movement. They must anticipate the possibility that the Gush Emunim and its rightist allies will, through illegal and fascistic methods precipitate a conflict which will be used as a cover for the forcible expulsion of Palestinians from the occupied territories. An expulsion through such a means will likely enjoy the support of elements of Israeli society beyond the right who will welcome the resolution of the last 13 years' paradox. Such events would destroy the possibility of achieving peace through the establishment of a Palestinian State on the West Bank and Gaza. Continued settlement and expropriation already have almost rendered this irrelevant. The Palestinians for their part must secure allies and find means of defence (political means may prove as effective as military means against the powerful Israeli army).

Historical examination reveals that the settlement movement (and the Gush Emunim particularly) has roots deep in the philosophy of zionism. It draws strength from these in the present moment, yet it also bears the seeds of self-destruction. It has the potential for inflicting further hardship and dispossession upon the Palestinians and, ironically, may bring unseen grief to the Jewish people as well. Virtually the entire world has recognized the illegality and injustice of the Israeli settlements in the occupied territories. For the peace of all, settlement must be halted and the right of the Palestinians to self-determination realized through a State of their own.

Notes

1/ Ibrahim Abu-Lughod, ed., *The Transformation of Palestine* (Evanston, Northwestern University Press, 1971).

2/ *The Jerusalem Post*, International Edition, 16-22 March 1980.

3/ Yoseph Zuriel, *Ma'ariv*, 23 March 1979. (This and subsequent translations from the Hebrew by Prof. Israel Hahak unless otherwise specified.)

4/ Aryeh Rubenstein and Asher Wallfish, *The Jerusalem Post*, International Edition, 9-15 March 1980.

5/ Yosef Goell, *The Jerusalem Post*, International Edition, 13-19 April 1980.

6/ David Shaham, *Yediot Aharonot Supplement*, 13 April 1979.

7/ Arthur Samuelson, "Israeli expansionism", *Harper's*, February 1980.

8/ Dr. Israel Eldad, "The real-politik of our sages", in a pamphlet simply entitled *Gush Emunim*, Department of Information, Elon Moreh, Kedumim, Sak Naul, Jerusalem.

9/ *The Jerusalem Post*, International Edition, 8-14 June 1980.

10/ Goell, *op.cit*.

11/ Yehuda Litani, *Ha'aretz*, 30 September 1979.

12/ United Nations Special Unit on Palestinian Rights. *Bulletin* 9-10, September-October, 1979, p. 8.

13/ Goell, *op.cit*.

14/ John Ruedy, *Washington Star*, 29 October 1978.

15/ Larry Ekin, Testimony submitted to the National Council of Churches of Christ in the U.S.A., on behalf of the Middle East Research and Information Project (MERIP), Washington, D.C., 13 February 1980.

16/ *The Jerusalem Post*, 16 November 1979.

17/ Yehuda Litani, *Ha'aretz*, 16 May 1980.

18/ Hirsh Goodman, *Jerusalem Post Magazine*, 13 June 1980.

19/ Baruch Meiri, *Ma'ariv*, 18 September 1979.

20/ Joshua Brilliant, *The Jerusalem Post*, 11-17 May 1980.

21/ Yehuda Litani, *Ha'aretz*, 16 May 1980.

22/ E.g., Nahum Barnea in *Davar*, 9 May 1980. Among the best compilations of such events are the monthly occupied territories chronicles to be found in the journal *Israel & Palestine*, published in Paris.

23/ *Ha'aretz*, 6 June 1980.

24/ *Newsweek*, International Edition, 16 June 1980.

25/ Amnon Kapeliuk, *Al-Hamishmar*, 4 June 1980.

26/ *Ha'aretz*, 3 June 1980. From *Israleft*, 13 June 1980.

27/ *Newsweek*, International Edition, 16 June 1980. Yossi Dayan also credits Chief Rabbi Goren for his rapid release from prison the one time he was jailed.

28/ *The Jerusalem Post*, 4 June 1980. From *Israleft*, 13 June 1980.

29/ *Ha'aretz*, 3 June 1980. From *Israleft*, 13 June 1980.

30/ *Hatzofeh*, editorial, 3 June 1980. From *Israleft*, 13 June 1980.

31/ *Newsweek*, International Edition, 16 June 1980.

32/ *The New York Times*, 21 June 1980.

33/ *The Jerusalem Post*, International Edition, 30 December 1979-5 January 1980.

34/ *Ha'aretz*, 23 May 1980.

35/ *Al-Hamishmar*, 16 May 1980.

36/ Cf. *The Jerusalem Post*, International Edition, 13-19 April 1980; Amnon Kapeliuk, *Le Monde Diplomatique*, No. 309 (December 1979). The latter is translated into English and reprinted in the *Journal of Palestine Studies* 35, vol. IX, No. 3 (Spring 1980). Also cf. *Ha'aretz*, 23 October 1979 and *Ma'ariv*, 24 October 1979.

37/ Kapeliuk, *Le Monde Diplomatique*.

38/ *Ha'aretz*, 13 June 1980.

39 Cf. Eliahu Selpter, *Ha'aretz*, 6 June 1980.

40/ *Yediot Aharonot*, 14 September 1979. Quoted in Kapeliuk, *Le Monde Diplomatique*.

41/ *Ha'aretz*, 13 June 1980.

42/ Kapeliuk, *Le Monde Diplomatique*.

II. SECOND UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE

(25-29 August 1980,
Vienna, Austria)

A. HUMAN RIGHTS AND THE ISRAELI OCCUPATION OF PALESTINE

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Throughout the present century, Palestinians endured four occupations, the Turkish, Jordanian, British and Israeli, all in the span of two generations. The relationship between the occupying Power and the civilian inhabitants of the occupied territory is regulated by international law. Numerous charters, conventions, and declarations define the rights and obligations of both parties.[1] The rules governing occupation, however, remained virtually absent throughout the interaction between Palestinians and all their occupiers. The Ottoman Turkish occupation predated the promulgation of most of these precepts which were enunciated in the aftermath of the Second World War. During the Ottoman period, the tax collector and the army recruiter served as the dominant symbol of the occupation regime.

The British occupation was rationalized by a League of Nations Mandate as necessary for the "well-being and development of peoples not yet able to stand by themselves under the strenuous conditions of the modern world". Although the League Covenant recognized the independence of the Arab provinces of the defeated Ottoman Empire, it made that independence subject "to the rending of administrative advice" by the Mandatary, and in the case of Palestine, it added the Balfour Declaration as another condition.

The civilizing mission undertaken by Britain was simply a euphemism for imperial ambitions. Palestine was strategically located at the crossroads and adjoining the Suez Canal. This geo-political reality was well understood by Zionist leaders who dreamt about establishing a Jewish State in Palestine. Theodor Herzl wrote of the Jewish State: "We should there [in Palestine] form a part of a wall of defence for Europe in Asia, an outpost of civilization against barbarism". The relationship, therefore, between those who assumed the "sacred trust of civilization" and the untutored natives was dictated by British imperial interests and commitments to international zionism. The symbols of the British occupation were their mounted police, tax collector and the district commissioner, who together shared the responsibility for the maintenance of law and order for the duration of the occupation.

The next occupation was motivated and rationalized by different considerations and principles from those which characterize the Ottoman and British rules. Hashemite Transjordan was hardly a State much less even a nation with a well-developed foreign policy or a coherent ideology. Dynastic ambitions constituted perhaps the most crucial factor in the annexation of Eastern Palestine by Trans-Jordan. Arab unity was the principal rationale for the merger of the two "banks" of the Jordan River on 25 April 1950, but the Act of Union made it clear that the merger did not prejudice the "final settlement of the just case of the Palestinian people". The merger was therefore considered, in theory at least, neither immutable nor irrevocable.

Although the Palestinians failed to set up a uniquely Palestinian State, their participation in the Jordanian political system gained them access to political power.

The Israeli occupation of Palestine has the unique distinction of being associated with an ideology which denies the very existence of the Palestinian people. The question of human rights in occupied Palestine is inextricably tied with Zionist ideology. Unlike European colonialism of the nineteenth century which sought to rule over people in Asia and Africa in an attempt to maximize profits or enhance strategic positions, zionism was patterned on the seventeenth century type of colonialism. The notion of the minority settler supremacy was evident in Zionist thought early in this century. David Ben-Gurion, the first Prime Minister of Israel, voiced his admiration of the adventures of European settlers on the North American continent and their encounters with the native Americans in a speech he gave in New York in 1915:

> "The history of American settlement shows how herculean were the tasks of the colonists who came to find the new Homeland in the New World ... how many and how fierce the fights they fought with wild nature and wilder redskins, the sacrifices made before they unlocked the continent for mass influx and colonization."

Zionist leaders were not unaware of the fact that the "outpost of civilization" which they pursued would be inhabited, but they were confident that native resistance would be overcome by an "assured supremacy" guaranteed by the West. Herzl recorded in his diary that after the Jewish State was established it would be necessary to "spirit the penniless population across the frontier by denying it employment".[2] A basic tenet of zionism is that the dominant Jewish majority has rights denied to others. Israel is considered legally "the sovereign State of the Jewish people".[3] Even before the establishment of the State, the Arab majority was rendered by the Balfour Declaration and the Zionist draft which it amended as the "existing non-Jewish communities", and the only safeguard they were given pertained to civil and religious rights while the phrase political rights was deliberately omitted.

Today, over half a century since the Balfour Declaration, the Arabs of Palestine have neither enjoyed the political rights which they are entitled to as a "people", nor even the civil or religious rights promised to them by a former occupier of their land. The Zionist ideology of the new occupiers precludes these rights for the occupied. In fact the Palestinians are viewed by their occupier as temporary residents. According to the "Homeland Doctrine" enunciated by the Labor Government and supported by the Likud, the territories occupied since 1967 form part of the natural boundaries of the State of Israel and are not occupied within the meaning of international law.[4] The Palestinians in these territories are considered as people living on sufferance. Een-Porat insisted in a newspaper article written eight years ago that "there is no zionism, and there is no settlement, and there is no Jewish State without evacuation of Arabs and without expropriation and fencing of lands".[5] More recently the daily Al Hamishmar carried an article titled "The Truth About Kiryat Arba Men" which expresses the sentiments of Gush Emunim settlers on this question. Meir Indor, a spokesman for the settlement, is quoted as saying:

> "The Arabs must know that there is a master here, the Jewish people. It rules over Eretz Israel ... The Arabs are temporary dwellers who happen to live in this country. There are commandments in the Bible concerning such temporary dwellers and we should act accordingly."[6]

The Gush Emunim derive their inspirations not only from political zionism but mainly from the Jewish religious law (Halacha). The security argument for retaining the occupied territories, prevalent between 1967 and 1977, is being pre-empted by a historical argument. Menachem Begin's stand with regard to Jewish sovereignty in the West Bank and Gaza was promoted from a rhetorical slogan of the right wing opposition to a negotiable item for Presidents Carter and Sadat. For more than 30 years the Likud expansionist scheme, laden with a parochial and an anachronistic historical perspective, was taken seriously by the very few who were addicted to hallucination. The late Israeli historian, Jacob Talmon, complained that he couldn't really be expected to face sophisticated colleagues abroad and tell them that the Jews have a "divine title deed to the land and that this title deed pre-empts all other legal claims".[7]

Today, however, thanks to Presidents Carter and Sadat, the context of the Camp David proposals render imperative the fact that legal sovereignty is at issue in the West Bank. The three chief executives arrogated to themselves the right to determine that the rights of the Palestinians living under occupation do not extend beyond autonomy. Begin even restricts that autonomy to the people but not to the land.

Faced with a colonial settler regime asserting divine claims and pressing to acquire the "land without the people", Palestinians in the occupied territories were left with but one option - to resist the occupation. Their struggle for social advancement and for civil rights has been part and parcel of the nationalist struggle. The occupation authorities as well as the Jewish settlers make no distinction in their encounter with their captives based on social class, sex or creed. The confrontation is total in which one community is determined to replace the other which, in turn, refuses to accept its negation. A cycle of violence is therefore implicit in this kind of relationship in which the occupier inevitably defines every single member of the occupied community as a potential terrorist and a suspect. A reign of terror is the logical result.

The October War of 1973 produced a chain of events resulting in a new and an unprecedented challenge, on the political level, to the Israeli occupations of 1948 and 1967. The myth of Israeli invincibility was effectively challenged by Arab armies, whose performance revealed a capacity to assimilate modern technology and to eventually bridge the gap. The declarations of the Arab summit conferences at Algiers and Rabat in 1973 and 1974 heightened the morale of the captive Palestinian population in the occupied areas and in Israel proper, and reinforced their will to resist. These declarations elevated the role of the Palestine Liberation Organization (PLO) in the diplomatic configurations of the Middle Eat and pushed the organization into center stage of Middle East diplomacy. The PLO was declared the sole legitimate representative of the Palestinian people.

Other factors which intensified the resistance to the Israeli occupation was a determined attempt by the regime to tighten the reins and create new fact in the occupied territories. Both the Rabin and Begin Governments embarked on rapid schemes of colonization in the West Bank. The number of settlements has mushroomed to over 80 settlements. Moreover, economic measures were designed to weaken indigenous institutions and to further subordinate and integrate the economy of the occupied areas to that of Israel. The latest such act was the decision to take over the concession of the East (Arab) Jerusalem Electric Company in early July 1980.

Two groups in particular have played the vanguard role in this resistance during the past seven years. The Palestine National Front (PNF) was declared on 15 August 1973 in response to the escalation of Israeli repression and colonization and to the set-backs suffered by the Palestinian nationalist movement in Jordan in 1970-1971. PNF adopted the approach of civil disobedience and non-violent resistance, organizing against land confiscation and sales and publicizing the plight of political prisoners. It campaigned against the Israeli-sponsored municipal elections designed to legitimize the Israeli annexation of Jerusalem. The insignificant Arab turnout in these elections was largely to the credit of PNF. Furthermore, PNF foiled Israeli efforts to link Arab labour to the Istadrut (Israeli Labour Federation), encouraged businessmen not to pay taxes to the Israeli authorities, and organized massive demonstrations to protest the expulsion of eight Palestinian leaders from the West Bank in December 1973. By April 1974, the occupation authorities launched a repressive campaign against the Front, placing a large number of its leaders under administrative detention without charge or trial.

The crackdown against PNF was followed by new acts of resistance: the Day of the Land, held on 30 March 1976, the municipal elections in the West Bank during the next month, and the 18 April 1976 march by Gush Emunim throughout the occupied areas and the Galilee region.

The municipal elections of 1976 represented a new juncture in the Palestinian struggle. The former leaders left over from the Hashemite regime were replaced by a new generation of progressive mayors who ran on the National Bloc list of the PLO and PNF. They captured 148 seats out of a total of 191 seats contested throughout the occupied territories. The past four years since the municipal elections have witnessed a sustained resistance and an escalation of repression. The emergence of Begin's Government followed by the Camp David affair and the Israeli-Egyptian treaty increased the tensions to unprecedented proportions.

With Begin in power, it became increasingly clear that the occupation was here to stay. In fact the differences between Likud and Labour were peripheral but the former was less discreet about its plans for the occupied territories. Begin's symbolic visit of settlements served notice that the Israeli presence in the West Bank and Gaza is permanent. His plan of self rule which was announced in the Knesset in December 1977 assumed center stage in the Camp David agreements and was indeed the framework for the so-called autonomy talks between Egypt, Israel and the United States. The agreements of Camp David which condemned the West Bank and Gaza to a permanent status of subordination, less than a Bantustan, and which sentenced the Palestinians outside Palestine to a permanent exile were denounced as a plot against the Palestinian people. A declaration affirming the unity of the Palestinian people under the sole leadership of the PLO was signed on 1 October 1978 by the overwhelming majority of mayors and city councils and the various civic, professional and labor organizations in the occupied territories.

The mayors organized themselves under the National Guidance Committee acting as the principal "legal" opposition after PNF was pushed underground. The mayors issued appeals and manifestos, sent protest cables, sponsored rallies and demonstrations as the occupation regime intensified its repression. The Israeli authorities countered with a series of measures designed to inhibit all political activity, consisting of the following:

1. Warnings to mayors that they were to be held responsible for civil disobedience activities emanating from their district;

2. Restrictions on public meetings and freedom of movement including that of the mayors themselves;

3. Curtailment of the mayors' roles as providers of social and economic services through the use of the military governor's power to issue or deny licences for municipal projects. The power to block the transfer of funds earmarked for various municipalities from abroad has proven to be a strong weapon in the hands of the military.

The post-Camp David period witnessed an escalation in repression and violation of human rights including censorship, restrictions on all political activity, interference in municipal affairs, facilitating land transfers, crackdown on universities, collective punishment, expulsion of dissenters, and various forms of terrorism ranging from beatings to murder.

The Begin Government made use of a variety of laws and regulations to acquire land for Jewish settlements in the occupied areas. There are "waste lands" which the Government can "return to its ownership" even if they were cultivated in the past and are a private possession of the cultivators.[8] Arab landowners customarily receive "orders to sell" by the custodian of absentee property. The Government, moreover, decided on 16 September 1979 to permit Jews to purchase land in the occupied territories. After the High Court of Justice ruled that the Elon Moreh settlement must be dismantled because private land had been confiscated, the settlers moved to a nearby site and the Government began to consider altering the legal status of the occupied territories in order to avoid such rulings in the future. Settlements in the midst of Arab population centers were also approved by the Begin Government. After the killing of a Jewish student in Hebron on 31 January 1980, the Government authorized the establishment of two religious schools in the centre of Hebron which today constitute a settlement. As the opposition to settlements and repressive measures increased, the General Assembly voiced on 12 December 1979 and the Security Council on 1 March 1980, strong criticism of Begin's settlement policies. Israel's Knesset expressed its contempt in two resolutions on 6 March 1980 affirming Israel's right to settle anywhere in the occupied territories. Both Likud and Labour were associated with these resolutions, which violate the Geneva and the Hague Conventions prohibiting the transfer of civilian population into or out of territories occupied in war.

Censorship also increased since Camp David and the peace treaty in order to conceal the overwhelming opposition to the autonomy scheme and the unified posture behind the PLO. The Arab News Agency was subjected to censorship and other restrictions when it created the Palestine Press Services Ltd.[9] The owner of the agency, Raymonda Tawil, was placed under house arrest in 1976 and was again arrested in March 1978. The regime accused her of using the press service as a propaganda arm for the PLO. Other journalists and writers like Adel, Omar and Samia Samara were arrested on 20 December 1979 and denied bail as "security risks" despite the fact that their accusation did not go beyond organizing politically.

The universities have been a constant and easy target of Israeli repression and harassment. In fact the military authorities introduced new regulations which made it nearly impossible for anyone to obtain a licence for a new university. Harassment takes various forms including censorship of every piece produced by universities for publication. A large number of Arabic books and journals are banned by the military regime and many requests to purchase are generally refused. The military governor arrogates to himself the right to declare members of boards of trustees "unacceptable". Harassment in the forms of unwarranted and unprovoked arrests and prolonged detention of both students and faculty is a technique frequently employed by the military regime. Students are generally assumed responsible for strikes and demonstrations. Israeli troops intervened inside the universities and physically attacked dormitories and beat students to extract confessions.[10] Numerous students from Bir Zeit and Bethlehem Universities have been injured. More recently a Bethlehem University student, Tagrid Butmeh, was shot and killed by an Israeli guard in what was officially described as an accident.[11]

Indiscriminate mass punishments are frequently used by the military to weaken the resistance and discourage dissent. Curfews, school closures, banishment of an entire faculty, and public humiliations are among the collective punishment techniques employed by the occupation authorities. A 12-day curfew at the Jalazone refugee camp of 4,000 residents was announced at 5.30 a.m. on 6 May 1979 through an army bullhorn following student demonstrations protesting the "autonomy" plan. Everyone was locked inside the camp for 22 hours a day with doors and windows tightly shut. *The Jerusalem Post* reported on 16 May 1979 that no fresh vegetables, fruits or milk was allowed into the camp. Only flour was delivered by officials of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The *Post* added:

> "Sanitary conditions are deteriorating every day the curfew continues. Garbage collection and disposal is difficult, and none of the residents has a refrigerator, limiting the life of fresh food. There, reportedly, are a large number of small children, pregnant women and nursing mothers in the camp."

The curfew was finally lifted on 17 May when the military governor announced that the camp's "Mukhtar (selectman) and notables promised him that law and order would henceforth prevail there". During the same month an 11-day curfew was imposed on the Ayda refugee camp west of Bethlehem after incidents of rock throwing at military vehicles. Another incident of rock throwing cost Halhul, a town of 12,000, a curfew which lasted for 16 days beginning on 14 March 1979 and a public humiliation of the mayor and the entire city council, evoking demonstrations in the town in which a boy and a young woman were shot and killed by the Israelis.[12] The newspaper *Zu Haderech* reported on 25 April 1979 in an article by Yafa Gavish that a third victim fell in Halhul when he went out to buy food for his livestock during the curfew.

The policy of banishment and internal exile was recently reported for the first time as an attempt to discourage dissent. Two families were taken out of their homes and dumped together with their belongings in roofless mud huts in abandoned and scorpion-infested refugee camps in May of this year. The action was a form of collective punishment for rock throwing at military cars by the families' teenage sons. One of the boys, Tareq Shumali, who is 17-years old, was beaten and required surgery.[13] When the families were finally returned home the liberal *Jerusalem Post* boasted:

> "Had this taken place in Kabul (Afghanistan) ... the young culprits would have been summarily executed ... and the entire families would have been lucky to be merely exiled ... but Israel is not the Soviet Union and the West Bank is not Afghanistan, despite allegations to the contrary by a number countries."[12]

The Jerusalem Post forgot to mention that Israel does not see itself as an occupier in the West Bank nor does it contemplate withdrawal from the land which it considers as part of the Biblical frontiers. The Soviet Union makes no such celestial claims on Afghanistan.

When curfews and collective punishments failed to weaken the resistance and stem the dissent in the aftermath of the Camp David affair, the occupation regime began systematic campaigns to get rid of the leadership in the municipalities. Their efforts to create quizzlings in Hebron, Ramallah and elsewhere yielded no results whatsoever. The "Union of the Hebron Area Villages" under the leadership of M. Doudin was exposed as a fruitless attempt to weaken the authority of Mayor Qawasmeh and the Hebron City Council. Abd al-Nur Jenho, a well-known collaborator in Ramallah, was assassinated in February 1978.

The confrontation with the mayors took several forms resulting in the expulsion of four, the maiming of two and the resignation of several. According to The Jerusalem Post of 11 October 1979, the military authorities considered Mayors Bassam Shaka, M. Milhelm, K. Khalaf and others members of an "illegal" body called the "Preparatory Committee for the Palestine National Front" which operates allegedly under the "National Guidance Committee", and held that committee responsible for the almost complete general strike on 26 March 1979, the day the Egyptian-Israeli peace treaty was signed. In a thinly veiled attempt to force them out of office, Mayors Khalof and Tawil of Ramallah and Bireh were brought to trial in October 1979 on a charge of having scuffled with a policeman a year earlier in Jerusalem. Mayor Bassam Shaka, another member of the Guidance Committee, was arrested on 11 November 1979 and threatened with expulsion simply because he expressed his views on the occupation in a private conversation with a high official of the military regime. The reaction in the occupied areas was swift and massive. A general strike was followed by a meeting in which 23 mayors submitted resignations en masse. The United Nations called on Israel to respect the Geneva Convention proscribing expulsion from occupied territories. Finally on 23 November, the High Court overruled the Minister of Defence and the cabinet and ordered against carrying out the expulsion orders. Mayor Shaka returned home to a hero's welcome which expressed the consolidation of the national movement in the occupied areas. That victory, however, was set back five months later after a group of Jewish settlers were ambushed in Hebron on 2 May 1980. A few hours later Mayors Fahd Qawasmeh and M. Milhelm of Hebron and Halhul, together with Hebron's chief religious judge were awakened and taken for a one-way helicopter ride with black bags over their heads to south Lebanon. Upon arriving, they were told that they were expelled by order of the Defence Minister. Predictably, the charge was incitement to violence. On 8 May 1980, the Security Council called on Israel to allow the return of the expelled leaders. The United States was the only member to abstain from the otherwise unanimous vote. The Israeli High Court ordered the Government to show cause why it should not allow their return, but the matter is still pending.

As if the expulsion of three leaders was not enough punishment for the ambush of Jewish settlers who were free to roam Arab towns, break into Arab homes, ransack property and beat civilians, the people of Hebron suffered a number of punishments which included curfews and demolitions. A 16-day curfew was imposed on Hebron during which soldiers and settlers from Kiryat Arba smashed doors and windows of more than 150 vehicles. Moreover, 16 shops were demolished with all contents, immediately following the ambush.[12] Young Israeli soldiers told Knesset member Uri Avneri that they were ordered by a senior military government officer to beat every person they catch outside his home during the curfew: "Beat him on all parts of his body except for the head. Have no pity, break all their bones".[13] Moreover, they were told to beat the father in front of the family.

Exactly a month after the expulsion of the two mayors and the chief judge, Palestinians in the occupied areas were awakened to the news that Mayors Shaka and Khalaf were maimed in their own cars as they started for work in the morning. Seven other Arabs were injured in Hebron and Mayor Tawil of Bireh was saved when an explosive device attached to his garage door exploded in the face of an Israeli Druze soldier. The Prime Minister of Israel, who was responsible for much terror in the 1940s as head of the Irgun Zvei Leumi, condemned the assassination attempts on the mayors as "crimes of the worst kind".[14] His statement, however, hardly conceals the fact that his settlement policy has created an atmosphere for that kind of terrorism. The private armies which are being organized by right-wing Jewish settlers of Gush Emunim and Kach are in fact implementing the goals of the settlement policies of the Begin Government. The Government provides the settlers with economic benefits and protection and equips them with legitimacy while it ensures that their victims remain defenceless and powerless.

The Israeli intention has been to eliminate the leadership of the Palestinians living under occupation. The assumption that this would diminish opposition to the "autonomy" scheme and to the settlement policy is naive, at best. Occupations cannot be maintained without repression. Repression generates resistance and a cycle of violence is implicit in this kind of relationship. What is new about the confrontation between the occupier and the occupied in Palestine is that state terrorism against the civilian inhabitants is being supplemented by vigilante terrorism along the lines of the 1940s. William Broader of The New York Times on 25 June 1980 emphasized though misconstrued this phenomenon: "Although military occupation is not new to them [Palestinians in occupied areas], Israeli terrorism - if that is what it was - is virtually without precedent in the last thirty years". This terrorism by vigilante settlers is reminiscent of the kind practiced by Begin's Irgun and Foreign Minister Shamir's Stern Gang in the late 1940s. A random questioning of settlers' reactions to the maiming of Mayors Shaka and Khalaf by the press revealed a great degree of satisfaction. The following are samples of these reactions: "I hope that Jews did it"; "Well organized, very good work";[15] "We must make the Arabs aware that they have to leave ... Anyone who thinks that Jews and Arabs can coexist is kidding himself," said Yosi Dayan, a spokesman of Meir Kahane's Kach.[16] H. Druckman of the National Religious Party said, "Let all thine enemies perish thus."[17] The New York Times reported on 21 June 1980 that a 10-year old Israeli girl, Noah, asked her mother, "Are we glad or not glad it happened?" The mother said not glad, but the next day, upon returning from school, Noah said to her mother, "Mommy, you are wrong, we are glad." Amnon Kapeliuk gives a detailed and vivid description of the settlers' feeling in the Hebron area towards Arabs. It ranges from utter contempt to wishing that they vanish.[18] Upon asking one of the settlers why they covet Hebron after having established Kiryat Arba, Kapeliuk was told, "It is not theirs, it is ours ... it is ours by the power of the Bible. It was ours 2,000 years ago and it will always belong to us. If they [the Arabs] don't like it let them leave, and you can also leave if you don't like it."[19] The Secretary of Kiryat Arba, Yossi Viner, explained his point of view about the Hebron problem to Dr. Kapeliuk, "They [the Arabs] must be treated with an iron first, like in Gaza ten years ago."

The same feeling is expressed again in an article entitled "Miriam Lapid: The Refusnicks" by Haim Shivi, published in Yediot Ahronot on 8 February 1980. Miriam Lapid says:

> "I think the most humanitarian solution and mainly because I have a Jewish soul is that two peoples shall not live here together. If Rabbi Kahane has opened an office and wanted to arrange one way flight tickets for Arabs, should he sit in prison for that? ... It hurts me that they [the Arabs] are not regarded as something temporary."

We can only assume that terrorism by Jewish vigilante groups is a product of the ideology which rejects the very existence of Arabs in Palestine as well as the policy which considers that Jews have a divine right to settle in occupied territories. The present Government makes no more pretenses that settlements are needed for security. The view that is heard increasingly in Israel today is that there is no room for two people in Palestine. The Arabs are being "spirited across the frontier" but not even surreptitiously, as Herzl predicted.

In the mean time, the indigenous Palestinians are struggling for their very existence. Their continued resistance has moved Israel increasingly to the right. Some of the laws applied to Israel's Arab citizens smack of the sedition acts in the United States during the First World War. Two weeks ago the Knesset was asked by the Cabinet to issue legislation that would make it a crime to carry Palestinian flags or sing Palestinian songs. The request received overwhelming preliminary support in the Knesset on 29 July 1980.[19] Arab citizens in Israel are being placed under house arrest under emergency regulations.[20] More than 3,000 Palestinian prisoners from the occupied territories linger in prison as administrative detainees, many of whom have not been charged or tried. Torture is rampant and has been verified by the International Committee of the Red Cross, Amnesty International, the Israel League for Human Rights, and many other agencies.[21] During the past week at least two Palestinian prisoners died as a result of forced feeding by prison authorities in Israel. A prison official was quoted by the press as saying forced feeding would continue as long as the hunger strike continued in the Nafha prison. To let prisoners die is rejected, he said, because of "Jewish humanism"![22] Yet, prisoners had suffocated after salt water was pumped into their lungs by guards. Beating students and shooting indiscriminately during demonstrations has become a common practice. Israeli politicians, academicians and journalists feared that Israeli society is fast becoming dehumanized. Professor Israel Shahak of Hebrew University wrote:

> "The 'education' of young Israeli Jews both in the conquered territories and in such function as 'controlling' the Palestinian workers inside Israel when serving in the 'civil guard' fulfils the same function as the pogroms against the Jews did for the German youth in 1933-1939."[23]

Ada Ushpiz wrote in a revealing article for Ha'aretz on 23 March 1979 entitled "I am a Fascist, I am a Chauvinist, I am a Fanatic", describing a visit to the Gush Emunim settlement, Ofra:

> "A few children can still be seen playing with guns and with fire crackers, left from Purim. A husky three year old child pants and exhales, fighting with his toy rifle. 'What are you doing?' I asked. 'Killing,' he said, in a shy voice. 'Whom are you killing?' 'I am killing the Ar... Haman the Wicked (a favorite kindergarten song about the need to kill Arabs)'."

Eyal Kafkafi expressed the same fear about a national psychosis in an article in Davar on 4 September 1979 entitled, "Ghetto mentality in the State of Jews", describing the army's behaviour during conquest:

> "Recently I found a letter written on November 8, 1948 with the following story: Today I read the editorial of Hamishmar ... I would like to give you evidence of an eye witness given to me by a soldier who was at the Arab village of Doima the day after it was conquered ... He is one of our own people (meaning either Kibbutz or Moshav man). The conquering army was the Brigade 89 ... They had killed 80-100 Arabs, women and children. They have killed the children by crushing their skulls with sticks. There was not even one house without dead people ... Arab men and women who were left in the village were put in houses without food or water. Then the sappers came to blow up the houses. One commander ordered a sapper to put two old women into a house he was about to blow up ... Another soldier boasted about raping an Arab woman then shooting her. They made another Arab woman, who had a baby, clean the yard ... She worked a day or two and then they shot her and her baby."

Knesset member, Uri Avneri, entered the Sadeh affair into the records of the Knesset on 15 October 1979. It is an account of the regimental commander in the Engineering Corps of the Israeli army during the 1978 invasion of Lebanon who ordered the killing of a prisoner of war "who appeared to him to be a terrorist".[24]

Even Moshe Sharett, Israel's first Foreign Minister and one-time Prime Minister, expressed a similar fear about moral deterioration in Israel. He wrote in his Diary after becoming aware of the murder of two Bedouins the following:

> "I meditated on the substance and destiny of this people [Israeli]who is capable of subtle delicacy, of such deep love for people and of such honest aspirations for beauty and mobility, and at the same time cultivates among its best youth youngsters capable of calculated, cold-blooded murder, by knifing the bodies of young defenseless Bedouins. Which of these two biblical souls will win over the other in this people?"[25]

The revival of this terrorism mainly by Jewish settlers will remain as the principal threat to any future coexistence in Palestine and will prove, in the end, morally and institutionally corrosive. Indeed, the greatest threat to the Jewish people in Palestine is one that may arise from within.

Notes

1/ The Hague Regulations respecting the Laws and Customs of War on Land annexed to the Hague Convention (IV) of 1907; the London Charter of 1945, article 6; the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, articles 27-78; the Convention on the Prevention and Punishment of the Crime of Genocide, of 9 December 1948.

2/ R. Patai, ed. The Complete Diaries of Theodor Herzl (New York, 1960), vol. I, p. 88, entry for 6/12/1895.

3/ See Noam Chomsky, "Against apologetics for Israeli expansionism", New Politics, vol. XII, No. 1 (Winter, 1978), pp. 15-47.

4/ Palestinian inhabitants of the West Bank and Gaza are considered "protected persons" and the area in which they live are "occupied" territories according to the provisions of article 42 of the Hague Convention and article 4 of the Fourth Geneva Convention. Article 42 of the Hague Convention states:

> "A territory is considered as occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised".

Article 4 of the Fourth Geneva Convention stipulates:

> "... persons protected by the Convention are those who, at a given moment, and in any manner whatsoever, find themselves, in a case of a conflict or any occupying power of which they are not nationals."

Since 1967, Israel has refused to acknowledge the applicability of the 1949 Geneva Convention to the occupied territories. It further announced its refusal to receive any international commission to investigate the conditions of the inhabitants of the occupied territories or allow an Israeli investigation with an international observer.

5/ Quoted in Jay Conen, A Psychohistory of Zionism (New York, Mason/Charter, 1975), p. 196.

6/ "The truth about Kiryat Arba men", Al Hamishmar, 8 February 1980.

7/ Gonen, op.cit., p. 198.

8/ Danny Rubenstein, "The gloves were taken off", Davar, 5 February 1979.

9/ See The Washington Post, 6 March 1980.

10/ See "Violent demonstrations in Ramallah--The Army broke into a school to make arrests", Davar, 12 March 1979. See also articles by Yehuda Litani in Ha'aretz, 12-13 March 1979; see article by Y. Zuriel in Ma'ariv, 13 March 1979 and Ha'olam Haze, 14 and 21 March 1979.

11/ See article in Christian Science Monitor, 23 June 1980.

12/ See interview with Halhul mayor, M. Milhelm in Palestine Human Rights Bulletin, No. 19-20, pp. 3-5.

13 *Christian Science Monitor*, 30 May 1980.

14/ *Christian Science Monitor*, 3 June 1980.

15/ *The New York Times*, 4 June 1980.

16/ *Christian Science Monitor*, 5 June 1980.

17/ *Newsweek*, 16 June 1980.

18/ "Hebron under collective punishment", *Al-Hamishmar*, 8 February 1980.

19/ *The New York Times*, 30 July 1980.

20/ *The New York Times*, 7 July 1980.

21/ See Naseer Aruri, "Resistance and repression: political prisoners in Israeli occupied territories", *Journal of Palestine Studies*, vol. VII, No. 4 (Summer 1978), pp. 48-66.

22/ *Boston Globe*, 25 July 1980.

23/ *Shahak Papers*, Jerusalem No. 20, p. 18.

24/ *Shahak Papers*, Jerusalem No. 26, p. 12.

25/ Entry from p. 823, 8 March 1955. Quoted in Livia Rokach, *Israel's Sacred Terrorism* (Massachusetts, Association of Arab-American University Graduates, 1980), p. 35.

B. THE UNITED NATIONS AND THE NATIONAL RIGHTS OF THE PEOPLE OF PALESTINE

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Introduction to the recognition of national rights

A juridical consideration of national rights should start with two basic premises. The first is that national rights do not arise until there is first a community of people with a national identity. The second is that the right of self-determination is the preeminent national right. Without self-determination, free from external coercion or interference, the people have no meaningful political choices. Any other national rights such as independence and sovereignty follow from the successful exercise of the right of self-determination.

It is important that a people seeking self-determination have a strong sense of national identity. In addition, the world community of States must manifest acceptance and accord recognition to the claimed national identity. Before the establishment of the United Nations as the preeminent international organization, States could only express such acceptance and recognition on an individual basis. While this is still important, the existence of the United Nations General Assembly as the committee of the whole of the world community allows States to act collectively with an efficiency that was not previously possible.[1] It is a universally accepted legal principle that the individual acts of States create or make customary international law and general principles of law. When States act through the General Assembly it is clear that they do not lose their authority to make a law. The extent to which a General Assembly resolution is based on the historic competency of States to make law as opposed to powers granted under the Charter of the Charter is an interesting question of legal theory. The crucial point is that combining both sources of authority, States may now make law in a relatively rapid and efficient manner. Resolutions of the General Assembly adopted by overwhelming majorities have particularly persuasive law-making authority. Whether such resolutions are deemed to be law themselves, or merely evidence of law, it is clear that, either way, they provide an authoritative legal basis for subsequent actions.

The Charter pertains to peoples as well as to States. Among the purposes of the Organization specified in the first article of the Charter is: "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples ...".[2] This marks a significant departure from the old legal theory that international law accords rights only to States and Governments and not to groups or individuals.[3]

Recognition of the Palestinians as a people with a national identity

The Palestinians, without distinction as to religion, were a people de facto as the inhabitants of the country named Palestine long before the twentieth century, and they had close connections with their fellow Arabs in adjoining Syria and Lebanon. The Palestinians, Syrians and Lebanese, along with other Arab peoples, were under the rule of the Ottoman Empire until the First World War. Following that conflict, the United Kingdom was designated as the mandatary Power under the League of Nations Mandate for Palestine.[4] The Covenant of the League of Nations itself recognized "provisionally" the "existence as independent nations" of the communities that were formerly parts of the Turkish Empire and this included provisional recognition of the Palestinians.[5] Because the Mandate, consistent with the requirements of Article 22 of the Covenant, was designed to lead the people of the country to independence, it contained an implicit recognition of Palestinian national identity.[6] The United Nations accorded the Palestinians de jure recognition of their status as a people with national rights in the provisions of the Palestine partition resolution, authorizing them to establish "the Arab State".[7] From the time of adoption of that resolution in 1947 until 1969, however, the United Nations emphasized the Palestinians' de facto role as individuals who were refugees and war victim. The United Nations actions of that period were designed to implement their individual right of return[8] and achieve their elementary human rights.

In 1969, the General Assembly shifted its perspective to acknowledge the Palestinians as a people having rights under the Charter. In the first preambular paragraph of resolution 2535 B (XXIV) of 10 December 1969, the Assembly recognizes "that the problem of the Palestine Arab refugees has arisen from the denial of their inalienable rights under the Charter of the United Nations and the Universal Declaration of Human Rights". In paragraph 1, the Assembly provides recognition by the United Nations of the Palestinians as a people with a national identity by reaffirming "the inalienable rights of the people of Palestine". This recognition of juridical status has been reaffirmed by the General Assembly in all subsequent resolutions dealing with the subject.

General Assembly resolution 2672 C (XXV) of 8 December 1970 follows the pattern of the resolution just considered. In the second preambular paragraph, the Assembly reaffirms the inalienable right of "the people of Palestine" and in paragraph 1 uses the same words in referring to the people's national rights. In paragraph 2, the

Assembly repeats the identical words in declaring that full respect for the people's inalienable rights is an indispensable element in the establishment of a just and lasting peace. Assembly resolution 3210 (XXIX) of 14 October 1974 concerns the status of the people by providing that "the Palestinian people is a principal party to the question of Palestine". It also concerns the status of the representative of the Palestinian people by inviting the Palestine Liberation Organization (PLO) as the "representative of the Palestinian people" to participate in the deliberations of the General Assembly on the question of Palestine in plenary meetings. This status is further augmented in paragraph 7 of resolution 3236 (XXIX) of 22 November 1974 in which the Assembly "requests the Secretary-General to establish contacts with the Palestine Liberation Organization on all matters concerning the question of Palestine". In resolution 3237 (XXIX), also of 22 November 1974[9] the Assembly invites the PLO to participate in the sessions and work of the Assembly and of all international conferences convened under the auspices of the Assembly in the capacity of observer. The people of Palestine have a relationship to the PLO similar to the French people's relationship to the Free French organization (later known as the Fighting French), when France was under military occupation.

It provides useful clarification to contrast the Palestinian people with "the Jewish people" entity claimed by the State of Israel.[10] The Zionist "Jewish people" concept was developed by the Zionist Organization/Jewish Agency prior to the establishment of the State of Israel. Before the rise of Zionist nationalism, "the Jewish people" referred simply to voluntary adherents of the religion of Judaism, the oldest of the monotheistic religions of universal moral values. The Zionists have impressed their own secular meaning upon the term and have given it a more precise juridical definition through various Israeli statutes. "The Jewish people" concept within the State of Israel accords its members certain privileges and rights on a discriminatory basis which are denied to other Israelis. The same concept applied to persons outside the State of Israel imposes upon them a juridical link with the State of Israel whether they desire it or not. For example, in the Eichmann case the Israeli District Court stated that "the connection between the Jewish people and the State of Israel constitutes an integral part of the law of nations".[11] Because of the discriminatory characteristics of "the Jewish people" concept, it would constitute a violation of articles 55 and 56 of the Charter of the United Nations if the General Assembly recognized it. The United States Government has explicitly rejected "the Jewish people" concept as a valid concept of international law in a letter from Assistant Secretary of State Phillips Talbot addressed to Rabbi Elmer Berger.[12]

The Charter of the United Nations provides that "the United Nations shall promote, inter alia, "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".[13]

Consistent with this requirement, "the Palestinian people" must comprise all Palestinians on a discriminatory basis. If it did not do so, it could not be recognized by the General Assembly without violation of the Charter provisions concerning human rights. In summary, "the Palestinian people" includes individuals of as diverse religious identification today as it did before the rise of Zionist nationalism. It will be essential to maintain this characteristic in the establishment of the Palestinian State in order to comply with the human rights requirements for each of the two States authorized by the Palestine partition resolution[7] as well as with the human rights provision of the Charter.

The right of self-determination in international law

The practice of self-determination preceded the development of the principle or the right of self-determination in international law. The American Revolution and the subsequent Latin American revolutions against European colonialism provide preeminent historic examples. The idea of self-determination was present in President Woodrow Wilson's fourteen points.[14] Henry Kissinger has accurately described the situation as it existed at the post First World War peace settlement:

> "In 1919, the Austro-Hungarian Empire disintegrated not so much from the impact of the war as from the nature of the peace, because it continued existence was incompatible with national self-determination, the legitimizing principle of the new international order."[15]

It is important to note that the principle of self-determination was reflected in the provisions of the League of Nations Covenant through the mandates system with the mandatary Powers assuming "a sacred trust" to promote "the well being and development of such peoples".[16] At the present time the only examples of peoples who were placed under the mandates system who have not achieved self-determination are the people of Palestine and the people of Namibia (South-West Africa). The widespread implementation of self-determination since the end of the Second World War is reflected directly in the membership of the United Nations.

One of the major purposes of the United Nations, as set out in the Charter, is the development of friendly relations based upon respect for "the principle of equal rights and self-determination of peoples".[17] It is sometimes contended by those who oppose self-determination for others that the Charter only states that self-determination is a principle and not a right. This view lacks merit since the carefully drafted and equally authentic French text states, "du principe de l'égalité de droits des peuples et de leur droit à disposer d'eux-mêmes". By using the word "droit" in connection with self-determination, the French text removes any possible ambiguity. Article 55 of the Charter emphasizes the importance of self-determination by stating that peaceful and friendly relations are based on respect for it. Article 73, concerning Non-Self-Governing Territories, provides that members assuming responsibility for such territories are required to "develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions".[19]

The General Assembly has performed the task of interpreting and developing these principles from the early history of the Organization to the present time. It should be recalled that the Palestine partition resolution 181 (II) of 29 November 1947 provides authority for two distinct national self-determination in Palestine. General Assembly resolution 1514 (XV) of 14 December 1960 entitled "Declaration on the Granting of Independence to Colonial Countries and Territories", is an important statement of basic principles and rights. The first two paragraphs of this Declaration provide:

> "1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.
>
> "2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

The vote on this resolution was 90 votes in favour to none opposed, with 9 abstentions. Since there were no opposing votes, this resolution must be interpreted as reflecting the stated legal views of the then full membership of the United Nations. In view of the increasing implementation of self-determination since 1960, the present membership of the General Assembly provides strong support for the views expressed in the 1960 resolution. Subsequent applications of the self-determination principle of resolution 1514 (XV) to Algeria, Angola and Southern Rhodesia (Zimbabwe) indicate the view of the General Assembly resolution that a right of self-determination is established in it.[19] The entire course of action taken by the United Nations and the overwhelming majority of its members since 1960 is consistent with this basic self-determination resolution.

In resolution 2625 (XXV) of 24 October 1970, containing the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the General Assembly provides further development of the right of self-determination. It considers a number of principles and under the heading of the "principle of equal rights and self-determination of peoples", the first paragraph states:

> "By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter."

This statement of law has a highly authoritative character since the General Assembly adopted it by consensus, that is, with not a single State in opposition.

Application of the right of self-determination to the people of Palestine

The provisions of the Palestine partition resolution,[2] which provide authority for the establishment of "the Arab State" constitute the first direct recognition of the Palestinian national right of self-determination by the General Assembly. The second such recognition is provided by General Assembly resolution 2649 (XXV) of 30 November 1970. In this resolution, the Assembly expresses concern that, because of alien domination, many peoples were being denied the right to self-determination. It then condemns those Governments that deny that right to peoples "recognized as being entitled to it, especially the peoples of southern Africa and Palestine". The legal effect of this significant resolution is that the prior resolutions setting forth the basic right of self-determination, resolutions 1514 (XV) and 2625 (XXV) considered above, are now specifically applicable to the Palestinian people.

With the adoption of resolution 2672 C (XXV) on 8 December 1970, the General Assembly moved towards acknowledging the correlation between the right of self-determination and other inalienable rights. In the second preambular paragraph, the Assembly recalls resolution 2535 B (XXIV) of 10 December 1969 and in the first preambular paragraph reiterates the language contained in that resolution providing that the Palestine Arab refugee problem had arisen from the denial of their inalienable rights. In the operative part of resolution 2672 C (XXV), the Assembly:

> "1. Recognizes that the people of Palestine are entitled to equal rights and self-determination, in accordance with the Charter of the United Nations;

> "2. Declares that full respect for the inalienable rights of the people of Palestine is an indispensable element in the establishment of a just and lasting peace in the Middle East."

In addition to reiterating the specific Palestinian national right of self-determination, in this resolution the Assembly links the achievement of Palestinian inalienable rights to the achievement of peace in the Middle East. It should be recalled that in Article 1 of the Charter it is required that the United Nations bring about peace "in conformity with the principles of justice and international law". It should be clear that neither of these principles is honoured unless Palestinian rights are implemented.

In resolution 3089 D (XXVIII) of 7 December 1973, the General Assembly enunciates the relationship between the rights of self-determination and return by providing in its paragraph 3 that it:

> "Declares that full respect for and realization of the inalienable rights of the people of Palestine, particularly its right to self-determination, are indispensable for the establishment of a just and lasting peace in the Middle East, and that the enjoyment by the Palestine Arab refugees of their right to return to their homes and property ... is indispensable ... for the exercise by the people of Palestine of its right to self-determination."

The necessary legal linkage of return and self-determination is designed to assure Palestinians the exercise of national self-determination as a "people". It is based on the common-sense conception that there can be no self-determination without return to the areas where self-determination may be exercised.

An analysis of paragraph 3 reveals that while the General Assembly understandably views the achievement of return as a necessary prerequisite to the effective exercise of self-determination, the right of self-determination of Palestinians as a national group was apparently not intended to follow invariably from the return of individual Palestinians. The pertinent wording provides that the "Palestine Arab refugees" are entitled to enjoy "their right to return to their homes and property", while the "people of Palestine" is entitled to exercise "its right to self-determination". The use of "Palestine Arab refugees" when referring to return is apparently meant to stand in contradistinction to the use of "people of Palestine" when reference is made to self-determination.

General Assembly resolution 3236 (XXIX) of 22 November 1974 concerns the right of return and it also has preeminent importance concerning the right of self-determination. In the fifth preambular paragraph, the Assembly recognizes that "the Palestinian people is entitled to self-determination in accordance with the Charter of the United Nations". In paragraph 1, the General Assembly:

> "Reaffirms the inalienable rights of the Palestinian people in Palestine, including:
>
> "(a) The right to self-determination without external interference;
>
> "(b) The right to national independence and sovereignty."

The exact boundaries of the area in Palestine in which these inalienable rights apply must be settled *de jure*.[20] The language of the resolution quoted above includes the "right to national independence and sovereignty" as a particularization of the self-determination right.

In paragraph 5 of the same resolution, the General Assembly refers to methods by which rights may be regained. In paragraph 3 of resolution 3246 (XXIX) of 29 November 1974, the Assembly "reaffirms the legitimacy of the peoples' struggle for liberation from ... alien subjugation by all available means, including armed struggle".

Since the American Revolution relied upon armed struggle to achieve self-determination about a century and a third before the principle of self-determination was used in the post-First World War peace settlement,[21] it is not surprising that the General Assembly specifies it as a permissible method today. Its permissibility is legally significant as an authoritative Assembly assertion that armed struggle for self-determination is consistent with the purposes and principles of the Charter. In a situation such as Palestine where the people has been denied its right of self-determination by armed force, the right to regain it by armed struggle is considered permissible under Article 51 of the Charter concerning self-defence.

Geographical area in which Palestinian self-determination applies

Where "in Palestine", to use the wording of resolution 3236 (XXIX), may Palestinian national self-determination, including independence and sovereignty be exercised? General Assembly resolution 2625 (XXV), containing the Declaration on Principles of International Law concerning Friendly Relations among States in accordance with the Charter of the United Nations, which has been considered concerning the right of self-determination, also provides basic legal interpretation concerning areas where self-determination may be exercised. Under the heading of the "principle of equal rights and self-determination of peoples", the penultimate paragraph provides:

> "Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour."

The quoted wording is of particular importance since it is designed to preserve the territorial integrity or political unity of non-discriminatory States that have a Government "representing the whole people belonging to the territory". The State of Israel cannot quality as such a State as long as its discriminatory Zionist features, including the denial of the right of return of Palestinians to their homes and property, are maintained in municipal law and practice. Pursuant to this provision of resolution 2625 (XXV), the General Assembly may provide for the lawful de jure boundaries for the State of Israel which do not preserve its "territorial integrity or political unity" as they may exist de facto at a particular time as a result of military conquest and of illegal annexation.[22/] The prohibition on the acquisition of territory by military conquest is regarded as fundamental in the Charter of the United Nations[23/] and in resolutions of both the General Assembly and the Security Council.

The only de jure boundaries that the State of Israel has ever had are those that were specified for "the Jewish State" in the Palestine partition resolution. Following the Armistice Agreements of 1949, which did not fix de jure boundaries, the State of Israel existed within de facto boundaries until June 1967. It is possible that those pre-1967 boundaries may have received some international assent. In resolution 242 (1967) of 22 November 1967, the Security Council, after emphasizing "the inadmissibility of the acquisition of territory by war",[24/] refers in paragraph 1 to the principle of "withdrawal of Israel armed forces from territories occupied in the recent conflict". Since there is no statement of withdrawal from territories occupied before 1967, this may amount to an indirect recognition of the pre-June 1967 boundaries. In the same paragraph, the Council also refers to the principle of the "territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries".

It is clear that two different national exercises of the right of self-determination cannot take place simultaneously upon precisely the same territory, and the careful working of resolution 3236 (XXIX) is consistent with this reality. Consequently, those Palestinians who choose to exercise their individual right of return within the State of Israel cannot exercise Palestinian national self-determination within that State. Since resolution 181 (II) established the principle of two States in the area and subsequent resolutions have not departed from that concept, it is clear that it is not the intent of the General Assembly to authorize Palestinian self-determination within the State of Israel. The Palestinian national right of self-determination as recognized in General Assembly resolutions may be exercised "in Palestine" within the de jure boundaries of the Palestinian State which are yet to be determined, and outside the de jure boundaries of the State of Israel as ultimately determined.

Conclusion: two national States in Palestine with rights and obligations for each

In the Palestine partition resolution (181 (II)), the General Assembly acted to resolve a situation of conflict and crisis by authorizing the establishment of two democratic States in the territory of the Palestine Mandate. The rights to establish the States were balanced by concomitant obligations to do so in accordance with the Charter of the United Nations and the terms of the partition resolution including its crucial human rights provisions. The ensuing resolutions of the General Assembly adhere to the basic elements of the partition resolution.

On 22 July 1980, the General Assembly met in its seventh emergency special session, following the negative vote of the United States at the 2220th meeting of the Security Council on 30 April 1980, which prevented that body from acting on Palestinian national rights. The Assembly adopted resolution ES-7/2 of 29 July 1980 on this subject, in which it specifically recalled and reaffirmed its resolutions 3236 (XXIX) and 3237 (XXIX) "and all other relevant United Nations resolutions pertinent to the question of Palestine". It:

> "4. Reaffirms also the inalienable rights in Palestine of the Palestinian people, including:
>
> "(a) The right to self-determination without external interference, and to national independence and sovereignty;
>
> "(b) The right to establish its own independent sovereign State;

"...

> "7. Calls upon Israel to withdraw completely and unconditionally from all the Palestinian and other Arab territories occupied since June 1967, including Jerusalem, with all property and services intact, and urges that such withdrawal from all the occupied territories should start before 15 November 1980."

The roll-call vote on this resolution was 112 in favour, 7 against and 24 abstentions. The five States that joined the United States and Israel in negative voting were Australia, Canada, the Dominican Republic, Guatemala and Norway. Although the vote was considerably short of unanimity, it demonstrated substantial world-wide support, which went far beyond the requirement of the Charter of the United Nations for a two-thirds vote on important matters,[25] for the national rights of the Palestinian people. This was the first time that the majority of Western European States abstained rather than voting negatively on such a resolution.

This resolution, like other General Assembly resolutions on the same subject, does nothing to infringe upon legitimate Israeli national interests. Paragraph 7, quoted above, appears to accord at least de facto recognition to the boundaries of Israel as they existed prior to the massive Israeli attack on 5 June 1967.

Security Council resolution 242 (1967) of 22 November 1967 concerning "a just and lasting peace in the Middle East", is widely regarded as having been accepted by each of the States directly affected by it. The State of Israel, nevertheless, has been engaged in a systematic policy of "creating facts" through the imposition of civilian settlements in the territories occupied since June 1967,[26] which is entirely inconsistent with the territorial provisions of resolution 242 (1967). This resolution has been supplemented by the resolutions of the General Assembly, which have been considered above. In particular, the undefined "just settlement of the refugee problem" referred to in resolution 242 (1967) is made specific by the Assembly's recognition of the right of return for individual Palestinians.[8] In addition, the Assembly has recognized the national rights of the Palestinian people in carefully formulated terms, which do not infringe upon the legitimate rights of the State of Israel. These Israeli national rights, which remain inviolate, include, among others, the rights to self-determination and to national independence and sovereign equality with other States consistent with international law, including the pertinent United Nations resolutions. The Israeli rights do not include, among others, supposed rights to deny self-determination and independence to the Palestinian people and a supposed right to establish Israeli borders on the basis of military conquest and illegal annexations.

The outcome of the United Nations resolutions is that there is continuing authority for the establishment of two States in Palestine. The authority to provide for a State carries with it the authority to impose limitations including those based upon the human rights provisions in Articles 55 and 56 of the Charter. A limitation that is inherent in the authorization of the two States is that each may exercise its national rights conditioned on, at the last, the requirement of non-obstruction of the national rights of the other.[27]

The Palestinian right to self-determination, including national independence and sovereignty, has been established unequivocally as a matter of law. It is too well known to require elaboration that it has not yet been achieved as a matter of fact. The most urgent contemporary need is for a comprehensive sanctioning process to enforce the existing law. This process should start with the economic sanctions provided for in the Charter and, if they are unsuccessful, military sanctions should be invoked.[28]

Notes

1/ The paragraph is based upon widely accepted concepts which are enunciated in more detail in, inter alia, R. Higgins, The Development of International Law Through the Political Organs of the United Nations (Oxford, 1963) and W. T. Mallison and S. V. Mallison, An International Law Analysis of the Major United Nations Resolutions Concerning the Palestine Question (United Nations publication, Sales No. E.79.I.19), particularly chap. I.

2/ Art. 1, para. 2. The Preamble to the Charter states that "We, the peoples of the United Nations", acting through Governments, agree to the Charter and establish the United Nations. The human rights provisions of the Charter, Arts. 55 and 56, encompass the rights of peoples and individuals. Art. 80, para. 1, refers to the rights of "any peoples". See Goodrich, Hambro and Simons, Charter of the United Nations: Commentary and Documents (Columbia University, New York, 3rd revised edition, 1969), pp. 494-500.

3/ The contrast between the contemporary and older theories of international law is pointed out in McDougal, "Perspectives for an International Law of Human Dignity", 53 Proceedings of the American Society of International Law 107 (1959).

4/ The text of the Mandate of 24 July 1922 is contained in the Report of the Special Committee on Palestine, (Official Records of the General Assembly, Second Session, Supplement No. 11, document A/364), vol. II, p. 5.

5/ League of Nations Covenant, Art. 22, para. 4.

6/ Art. 2 of the Mandate obligated the mandatary Power to secure, inter alia, "the development of self-governing institutions.

7/ General Assembly resolution 181 (II) of 29 November 1947 concerning the future Government of Palestine.

8/ Mallison and Mallison, op.cit., chap. III, p. 28.

9/ See Kassim, "The Palestine Liberation Organization's Claim to Status: A Juridical Analysis Under International Law", 9 Denver J. International Law and Policy, p. 1 (1980).

10/ The "Jewish people" nationality claims are analyzed in W. T. Mallison, "The Zionist-Israel Juridical Claims to Constitute 'The Jewish People' Nationality Entity and to Confer Membership in It: Appraisal in Public International Law", 32 George Washington Law Review 983 (1964) and reprinted as a monograph in 1964. The contrasting view that the claims are lawful is by the authoritative Zionist lawyer, Professor N. Feinberg, "The Recognition of the Jewish People in International Law", in The Jewish Yearbook of International Law, 1948 (Mass, Jerusalem), p. 1.

11/ Attorney General of the Government of Israel v. Adolf Eichmann, 36 International Law Reports, p. 5 at 53 (1961) (Opinion of the Israeli trial court, 12 December 1961), affirmed in 36 International Law Reports, p. 277 at 304 (Opinion of the Supreme Court of Israel, 29 May 1962).

12/ After referring to United States non-discrimination among its citizens based upon religious identification, it stated: "Accordingly, it should be clear that the Department of State does not regard the 'Jewish people' concept as a concept of international law", 8 M. Whiteman, Digest of International Law (United States Government Printing Office, 1967), pp. 34-35 at 36.

13/ Article 55 c.

14/ Point V concerning "colonial claims" provided that "the interests of the populations concerned must have equal weight with the equitable claims of the Government whose title is to be determined". Point XII provided that "the other [non-Turkish] nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development ..." [1918], Foreign Relations of the United States, Supp. No. 1, vol. 1, pp. 55-15 (1933).

15/ H. A. Kissinger, A World Restored: Metternich, Castlereagh and the Problems of Peace 1812-1822 (Houghton Mifflin, Boston, Sentry ed., undated), p. 145.

16/ Art. 22, para. 1.

17/ Art. 1, para. 1.

18/ Art. 73 b.

19/ General Assembly resolutions 1573 (XV) on Algeria; 1603 (XV) on Angola; and 1747 (XVI) on Southern Rhodesia (Zimbabwe).

20/ Mallison and Mallison, op.cit., chap. IV D, p. 46ff.

21/ See the text accompanying note 15.

22/ Article 47 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (United Nations, Treaty Series, vol. 75, No. 135) provides that protected persons in occupied territory shall not be deprived of the benefits of the Convention if the occupying Power annexes "the whole or part of the occupied territory". This provision was written to avoid a repetition of the Nazi practice of using the annexation device to attempt to avoid the application of the law concerning occupation.

23/ It is based, in part, on Art. 2, paras. 3 and 4.

24/ Preambular para. 2.

25/ Art. 18, para. 2.

26/ S. V. Mallison and W. T. Mallison, "Israeli settlements in occupied territory versus international humanitarian law", Arab Perspectives, No. 2 (May 1980), p. 15.

27/ Mallison and Mallison, An International Law Analysis of the Major United Nations Resolutions Concerning the Palestine Question, chap. VI, pp. 55 and 56.

28/ In para. 13 of resolution ES-7/2, the General Assembly requests the Security Council, in the event of non-compliance by the Government of Israel, to consider sanctions under Chapter VII of the Charter.

C. LEGAL AND PSYCHOLOGICAL VALUE OF THE NATIONAL ARGUMENTS OF THE PALESTINIANS AND INTERNATIONAL OPINION

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The law sanctions the principle of historical evolution; it derives from history. But what history? Who has the right to define the law and on the basis of what historical process?

The Palestinian problem stems from the inequality of relations between countries, as determined by the industrial and scientific expansion of Europe from the nineteenth century onwards. From the installation of Zionist colonies in Palestine, politically consolidated by the Balfour Declaration in 1917, to the creation of the State of Israel in 1948, it stems from international circumstances. However, the Palestinian claim has also drawn its vitality and its credo from a dual internal evolution; on the one hand, it has gained strength from the resistance of Islamic civilization and Arab culture and subsequently by their affirmation and vindication in the construction of new independent States while, at the same time, it has itself become an integral and motivating factor in Arab nationalism; on the other hand, the Palestinian people, like the other Arab peoples, has progressively defined the contours of its own entity. It has done so, in particular, within the framework of territorial claims covering roughly the map of Palestine under the British Mandate and, subsequently, of the State of Israel; it has thus done so in a political struggle against foreign implantation or against foreign support for those implantation. A social claim has naturally become grafted onto it, as a result of which the Palestinians have acquired solidarity with the liberation movements of other Arab countries and the third world in general. Through the revolt of 1936 and the war of 1947-1948, and on a broader basis after 1955-1956 (Bandung and Suez) and the war of 1967, the will to create a Palestinian homeland took form amid this duality wherein the Palestinian people had gained awareness of its personality and characterized its entity, taking as its basis the Arab, often Islamic, unitary ideal. It is this duality - this representation of a concrete local situation through a global and transcendental concept of the past and the future - which is difficult to understand for Western opinion, which often draws no distinction between State and nation or even federal (or imperial) grouping and power.

The ambiguities are in no way dispelled by the use of an international language, whether diplomatic or ideological, because behind it each people still retains its own perceptual tools, i.e. its own culture and its own concepts. It is thus not possible to regard the law on the basis of a single model, because its content rests on communal or ideological historical justifications, which constitute the inspiration, on each side, both the Palestinian and the Israeli, for a claim for which legal arguments have been sought later. In practice, it is obviously essential to keep to established rules or to the rules that are to be established in order to arrive at a just regional settlement of a problem arising in an international context; care should however be taken to distinguish between texts anterior to the Second World War and the decisions taken by the United Nations over the last 35 years, because the latter reflect not only a new international order but also a new awakening of peoples. This must be borne in mind in the endeavour to reach agreement on an equitable solution which is in accordance with the right of peoples to self-determination; for experience has shown that legal arguments and measures which are based on historical circumstance are always disputed if they are imposed by an action that is regarded as contravening that principle.

The situation thus created calls forth some observations. The Palestinians have acquired, through their claim, an international dimension while relying on their own cultural values, but by that very fact they are also, at the same time, asserting their role in a process of modernization organized on the basis of frequently defined models at the world level. Here, therefore, a new duality emerges, which in no way excludes the first and which, consequently, calls for particularly subtle analyses. It is a practical as well as moral necessity particularly if the purpose of the decisions of the United Nations is to bring about recognition of the rights of the Palestinians and their economic needs in international law.

On the other hand, the influence of the United Nations does not derive solely from the judgements of its majority; it depends on the attitude of the States which compose it and, hence, on the opinions of their peoples. These States act and their opinions evolve; each of the partners is aware of that fact and takes it into account in determining its own initiatives. All are aware of the role assumed by the United States and by the USSR in Middle East affairs since the 1950s, whether these Powers are directly pursuing their own interests or whether the parties to the conflict are soliciting their aid or their action as intermediaries or seeking the support of their public opinion. Emphasis should, however, be placed on the original position occupied since the mid-1960s by the Arab policy of France, and later that of Western Europe, in conjunction with the efforts of a number of Arab countries to assure their national independence from the two super-Powers. The search for a settlement of the Palestinian question has since then also been one of the bases for any negotiation in the Middle East with the hope, in particular, that a solution would guarantee a certain degree of regional stability - in an axial position essential for economic and political balance in the world - and a certain degree of regularity in development exchanges. Between the vote on Security Council resolution 242 (1967) of 22 November 1967 and the Amman and Venice Declarations, the French Government has, roughly speaking, successively supported the recognition of the legitimate rights of the Palestinian people, the evacuation of the territories occupied in 1967, the legitimacy of a Palestinian homeland and the right of Palestinians to self-determination. French public opinion, which showed itself largely favourable to Israel in June 1967, was already much more moderate in October 1973. A recent opinion poll in April 1980 showed that the majority of the French favour, in varying degrees, the participation of the Palestinians in negotiations on the Middle East. It may be noted that at the same time Palestinian majority organizations have been tending, for their part, to replace clandestine action by the obligations deriving from the establishment of quasi-diplomatic representation.

From the development of de facto situations, which has been accompanied by the adoption of positions at the international level, we may note the following. The experience of the last 30 years has shown that the Palestinians, far from merging with the population of other Arab countries, have on the contrary asserted their personality and even laid claim to a homeland, within the framework of the Arab nation (this emergence is, moreover, an anti-colonial phenomenon).

The Palestinian claim, in so far as it is one of the motive forces of Arab nationalism, has perhaps more than any other raised once again, in modern political terms, the problem of relations between civilizations.

The search for a political solution to the Palestinian problem should not make us overlook the seriousness of the social and cultural imbalances which have been caused over some 15 years in the Middle East by accelerated urbanization and the mass import of technology in order to consolidate certain growth points.

D. THE RIGHT TO SELF-DETERMINATION AND THE ESTABLISHMENT OF A PALESTINIAN NATION-STATE

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With regard to the question of Palestine, recent United Nations usage has preferably been the formula "inalienable rights of the Palestinian people". General Assembly resolution 34/65 of 1979, on the basis of which this seminar is being held, uses this term as well. The term no doubt covers quite a number of rights. Proceeding from earlier resolutions, the above-mentioned resolution explicitly mentions the right of return, the right to national independence and sovereignty in Palestine as well as the right of self-determination. Although it may not embrace all the rights the Arab people of Palestine are entitled to, those mentioned are at present more essential to the Palestinians in the face of Israel's continued occupation of Palestine territory since 1967.

In the following, allow me a few remarks on the right to self-determination which I believe occupies a central place not only in the catalogue of the inalienable rights of the Palestinian people but also in discussions of the international community about a just and lasting solution to the Middle East conflict.

The principle of national self-determination has a history that began at least two centuries ago. But well into the twentieth century - even as a bourgeois nationality principle - it remained merely a political leitmotif. Even where the principle of national self-determination was declared a foreign policy maxim, as, e.g., in the American independence movement or in the French Revolution, it excluded the colonially oppressed peoples from its purview. Even in 1917, when the young Soviet State in Russia for the first time proclaimed the right to self-determination for all peoples without exception a basic principle of socialist State practice, it still remained a norm of international law that was locally applied. It was only by Articles 1 and 55 of the Charter of the United Nations that the right to self-determination was recognized as a generally binding principle of international law. Since then it has developed into a "jus cogens" norm, as is confirmed by the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, contained in resolution 2625 (XXV) of 24 October 1970. In its light I am going to single out the following aspects with regard to the problem of Palestine.

1. The people of Palestine - a subject of the right to self-determination

The Charter of the United Nations and other international instruments provide as a matter of principle that all peoples and nations are subjects of the right of self-determination. This principle, while it did not remain unchallenged, has nevertheless prevailed in the process of decolonization against the imperialist colonial Powers. Seen from this general aspect, the people of Palestine is of course no exception. In addition, the United Nations has applied this yardstick ever since it has dealt with the problem of Palestine. As early as 1947, when the General Assembly for the first time found itself compelled to discuss variants of a solution to the question of Palestine, it adopted resolution 181 (II) of 29 November 1947, which granted the Arab people of Palestine the right to independent statehood, which no doubt meant recognition of its legal personality. By the way, that formula was approved at that time not only by the majority of United Nations members, but also by prominent Zionist bodies.

The aforesaid resolution in the same breath also granted the Jewish people of Palestine the right to statehood, thus declaring its right to self-determination. Although resolution 181 (II) of 29 November 1947 is not legally binding, this recommendation seems to include an eligible interpretation of the right to self-determination with regard to the subjects that was commensurate with the situation in Palestine at that time, which constituted a threat to peace.

In this connection it has to be borne in mind though that the so-called resolution on partition chose as its starting point not the revision of the political, economic, social and religious facts newly established by the British mandatory Power and its Zionist junior partner in Palestine, but recognition of these facts as an objective reality. A point of view which legally flows from the fact that the Charter of 1945 has no retroactive effect and that therefore the application of United Nations principles to events that took place before its adoption is inadmissible, as regrettable as this may be in the individual case.

With the admission of the State of Israel to the world organization at the latest, it became clear that the right to self-determination which resolution 181 (II) awarded to the Jewish part of the population of Palestine was now to be realized exclusively via the exercise, development and substantive change of Israeli State power. The Arab people of Palestine in 1947-1948 temporarily waived the exercise of its United Nations-granted right to self-determination in the form of an independent State beside Israel. This was of course legitimate. The mere logic of self-determination requires that a decision on national and social status can be taken only by the respective people itself. Resolution 181 (II), with its character of a recommendation, was in line with this requirement. It has to be pointed out in this context that the refusal to establish a State at that time neither meant a loss of the right to self-determination for the Arab people of Palestine nor the waiver of its legal personality. A fact that has been confirmed by several resolutions of the General Assembly (2535 (XXIV), 2649 (XXV), 3236 (XXIX), ES-7/2) following the Israeli occupation of Palestine territory in 1967.

2. The Palestine Liberation Organization - the political subject of the right to self-determination of the people of Palestine

Concerning the exercise of the right to self-determination, the essential point is not just an academic choice of the subject, but rather the question about the specific historical subject of such right through whom a people practically exercises international personality in world affairs. Apart from Fascists and racists, who cannot be recognized as legitimate representatives of a people, contemporary international law takes no position on the question as to which political forces are to exercise the right to self-determination of a people in international relations. As a matter of principle, it leaves this decision to the process of formation of political will, i.e. to the internal political forces of a given people.

As far as the people of Palestine is concerned, this process has a number of peculiarities which are bound to bear on the nature and forms of its political representatives. They include, in particular, the non-existence of a State of its own and military occupation of its rightful national territory by Israel since 1967. A consequence of this is that the views and opinions of the Palestinians on the exercise of the right to self-determination have been shaped in the course of an anti-imperialist national liberation struggle, and that they express their will not in political parties of a traditional nature as they are typical of established States, but primarily through resistance organizations committed to armed struggle.

Owing to the integration of the major resistance organizations into the Palestine Liberation Organization (PLO), which, moreover, also incorporates Palestinian mass and vocational organizations as well as individuals, the Palestinian people now has a political umbrella organization representing all important sections of the national movement. This is the direct source of the right of the PLO to claim exclusive political representation of the will and the overall interests of the Palestinians in terms of self-determination.

By recognizing the PLO, over 100 States subscribe to this view. By awarding the PLO an observer status the United Nations, too, has defined its position on the right of the people of Palestine to self-determination. Obviously, the observer status for the PLO (under General Assembly resolution 3237 (XXIX) of 22 November 1974) and other representatives of liberation movements recognized by the Organization of African Unity was granted because the people in those movements, for colonial or other reasons contradictory to the Charter, are prevented from a free choice of their own social system, including their political status. The status of peoples as subjects of the right to self-determination allows the logical conclusion to be drawn that their representative bodies can maintain international relations as long as inasmuch as the process of establishing their own States or their free association with an existing State is not yet accomplished.

By granting the observer status and requesting the Secretary-General "to establish contacts with the PLO on all matters concerning the question of Palestine, the General Assembly has legitimatized the PLO to represent the Arab people of Palestine and, in its capacity of the specific historical subject of the latter's right to self-determination, to perform also international rights and duties.

3. Right to self-determination and establishment of a Palestinian State

Following the sixth session of the Palestine National Council in September 1969, the PLO has come out in favour of a "Palestine democratic State". With this decision in favour of an independent nation-State, the PLO has not only opted for a form of human society which the decay of the colonial system over the last few decades has proved to be typical of our times, but can also invoke the criterion of rightfulness for its demands.

The exercise of the national right to self-determination under valid international law is not tied to special forms. Any anticipatory decision on a people's national or social status would always mean denying its freedom of decision and practically depriving it of the right to self-determination. Therefore, peoples are basically free to establish an independent State or to unite with other nations, e.g., through confederate, federative or autonomous forms of organization. The Declaration on Principles of International Law summarizes this aspect in the following phrase:

> "The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people." (Resolution 2625 (XXV), annex)

With this passage, the process character of the right to self- determination in the life of a given people is explicitly recognized. The stance of the Arab people of Palestine represented by the PLO for an independent nation-State at present precludes other possible ways of implementing the right to self-determination. However, as this option is based on expression of the free will of the internal forces of the people of Palestine, it is legitimate under international law.

The possibility of invoking the right to self-determination for the purpose of an independent nation-State inevitably includes a claim to a national territory. How else could peoples and nations develop politically, economically and culturally without infringing upon the interests and rights of other peoples? The refugee situation of most Palestinians is particularly convincing evidence of this interconnection.

So, if the right to self-determination is not to remain an empty declaration, it is urgently necessary to allow a people that exercises its right to self-determination to decide also on the frontiers of the State it seeks to establish, on condition, of course, that such a decision will be based on respect for the integrity of the territory of other peoples and States. Yet this imperative condition does not alter in any way the fact that the generally recognized interconnection between political independence and the territorial integrity of States already in existence is generally applicable also to the State-building process of a people struggling for self-determination.

Seen from this territorial aspect, the inherent link between the Palestine question and the Middle East conflict is particularly obvious. Because of the military occupation and partial annexation (Jerusalem) of all Palestinian territories by Israel since 1967, the Palestinian people has been illegally deprived of its national territory which the General Assembly awarded back in 1947.

Events in the occupied territories, in Jordan and Lebanon prove that without the termination of Israel's occupation regime, as prescribed in legally binding terms by Security Council resolution 242 (1967), no peace will be possible in the Middle East. Only under this condition will it objectively be possible to establish a State as demanded by the people of Palestine and advocated by the United Nations at its seventh emergency special session. Therefore, separate agreements disregarding the Palestinians' right to self-determination are not the right way. Only complex peace treaty arrangements between Israel and her Arab neighbours would be international guarantees for the national sovereignty and territorial integrity of a Palestinian State. Seen from this angle, assurance of the right to self-determination of the people of Palestine, including its right to establish an independent nation-State, is at the same time the key element of a just and enduring peace settlement in the Middle East.

E. THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND ISRAEL'S OCCUPATION OF THE WEST BANK AND GAZA

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The search for peace in Palestine has been complicated and frustrated over the past half century by all kinds of factors which are irrelevant to Palestine itself. Among them have been the interventions of the great Powers in pursuit of their own strategic interests; the rival ambitions of the surrounding Arab Governments; the competition for vital oil supplies; the sympathy aroused by the persecution of the Jews in Europe; and the need felt by American presidential candidates to win the support of the influential Jewish community in the United States.

All of these factors have been important in shaping the course of events in Palestine - and yet none of them has any bearing on the question of what is right and what is wrong as far as the people of Palestine are concerned. And what is more remarkable - and discreditable - is the fact that, until very recently, those who took it upon themselves to try to decide the future of Palestine did so without paying any attention to the rights of the Palestinians themselves.

That situation is changing and during recent years the phrase "the legitimate right of the Palestinian people" has gained acceptance as expressing one of the fundamental requirements for a peaceful settlement in the Middle East. It found a place in the joint statement on the Middle East published by the United States and Soviet Governments in October 1977. It has been emphasized in the various statements published by the nine West European Governments which cooperate within the European Economic Community (EEC). The latest of these statements, published after the heads of Government of EEC had met in Venice in June 1980, spoke of the need to recognize and to implement two principles which were universally accepted by the international community. The first of these was the right to existence and security of all States in the region, including Israel; and the second was justice for all the peoples, which implied, in the words of the Venice statement, "recognition of the legitimate rights of Palestinians". Even the agreement signed at Camp David by President Sadat and Mr. Begin in September 1978, which aroused such violent hostility throughout the Arab world, even that agreement stated that any solution resulting from the proposed Arab-Israeli negotiations must "recognize the legitimate rights of the Palestinian people and their just requirements".

So the principle has been accepted, even by those most widely accused of neglecting the Palestinian element of the Arab-Israeli conflict. But no one has yet answered the question that must immediately follow: what are these "legitimate rights" and these "just requirements" to which the Palestinians are entitled?

The answer to that question must closely affect the nature of the political settlement which eventually emerges in the Middle East. But while the debate goes endlessly on about the political rights which the Palestinians should enjoy, the world loses sight of the other rights, the ordinary, everyday human rights to which in theory the Palestinians are entitled like any other people in the world - and of which they have been unjustly deprived for so long. That this should be so, that while the politicians argue about concepts like autonomy and self-determination the Palestinians should be living in a kind of limbo in which they are denied not only the right to political self-expression, but even the most elementary protection against oppression and discrimination - that is a scandal for which there can be no possible justification.

Consider the situation of the Palestinians living in the West Bank and the Gaza Strip. For more than 13 years now they have been subjected to an alien domination against which they have no protection. In every detail, the pattern of their daily lives is dictated by the occupation regime. Waking and sleeping they are at the mercy of a military authority which has the power - and uses it freely - to invade their homes, to arrest them, to detain them without trial, to deport them, to demolish their homes and to impose collective punishments on whole communities which impose severe physical and psychological hardships. Their publications are censored, they may not engage in political activities, their right to assembly together for any purpose is rigorously controlled. Their schools and universities are subjected to arbitrary interference that takes no account of the principle of academic freedom. Their lands are confiscated without warning and under the spacious pretext of military "security", only to be handed over to Israeli settlers as part of a barefaced programme of colonization which has been repeatedly condemned as illegal by the highest international authority. Even the water supplies on which the Palestinian farmers depend are being diverted by the Israeli authorities to serve the interests of the Israeli settlers at the expense of the indigenous owners of the land.

These are evil practices that illustrate in detail the wider evil of a military occupation. Like the occupation itself, they constitute a kind of moral pollution whose effect, as the more far-sighted Israelis are coming to realize, is to corrupt the occupiers at the same time that it injures the occupied. A regime which depends upon this kind of injustice and discrimination requires from those who administer it a disregard for moral and humanitarian principles that is deeply degrading. The fact that the occupation regime has been in existence for 13 years does much to explain the internal crisis and the decline in moral standards that are so evident in Israel today. As only one out of many similar warnings which prominent Israelis have given of the dangers involved, I should like to quote to you a passage from an article by Meron Benvenisti, who served for a time after the June war of 1967 as deputy mayor of Jerusalem. In the Israeli newspaper Ha'aretz of 27 June 1979, Mr. Benvenisti wrote:

> "Occupation by its very nature corrupts the occupier. The harm that twelve years of occupation has caused to Israel's moral fabric is nothing to the damage it will cause in the coming period when protest and its suppression, violence and counter-violence, are intensified in the (occupied) territories and the situation deteriorates to the point of civil rebellion which will be answered by severe repression. The Military Government and the Defense Establishment will have to pay the price of the annexationist policy, with thousands of Israeli soldiers becoming embroiled in brutal confrontations."

There were those who thought that Mr. Benvenisti was exaggerating; but events on the West Bank in the summer of 1980 suggested that his forecast is likely to prove an accurate one if action is not taken soon to remedy the shocking state of affairs in the occupied territories. And it illustrates the fact that the evil results of the occupation are twofold. They bring suffering and misery on the victims of the occupation; but they are also profoundly harmful to the real interests of the occupiers. Nor is that all, for the very fact that a situation like this continues unchecked, and that the world knows about it but lacks the will or the power to put a stop to it, undermines the attempt to bring justice and order into international affairs. It encourages cynicism about the value of the United Nations or of such bodies as Amnesty International. It makes it harder than ever to win support for the unending fight against tyranny and injustice and discrimination.

It was in a concerted attempt to combat these evils that the General Assembly of the United Nations adopted, in December 1948, the Universal Declaration of Human Rights.[1] The preamble to the Declaration spoke of "the equal and inalienable rights of all members of the human family" and declared it to be "essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law". That idea, which found an echo in the article I quoted above from the Israeli press, has the closest possible relevance to the situation in the Arab territories whose people are members, like all of you here, of that human family for whose benefit the Declaration of Human Rights was framed. Yet when I went through the 30 articles of the Declaration, I found that no less than 15 of them referred to rights which at present are denied to the Palestinians living in the West Bank and Gaza Strip. In other words, exactly one half of the Universal Declaration of Human Rights, which was designed to give equal protection to all members of the human family, does not apply and gives no protection to the inhabitants of the territories occupied by Israel. With your permission, I should like to enumerate these rights which are denied to the Palestinians living under Israeli occupation.

Article 3 states that "Everyone has right to life, liberty and the security of person". But in the occupied territories, where thousands of Palestinians are in prison or under administrative detention for supposed offences against the occupation regime, no one enjoys "security of person" against the Military Government, which is able at will to invade his house, to arrest or detain or deport him by simple administrative order. There was a horribly vivid demonstration in June 1980 of the state of insecurity in which the Palestinians live under Israeli occupation when the Arab mayors of the West Bank towns of Nablus and Ramallah were the victims of bomb attacks that left them both maimed, while a third mayor was only saved from a similar fate by a timely warning. Whether or not the Israeli authorities were themselves implicated, as many Israelis suggested, in these attacks, they certainly afforded the Palestinian leaders no protection against them; nor have the authors of the outrage, members of the Jewish terrorist organization which styles itself "Terror against terror" been brought to justice.

Article 5 states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". The subject of torture in the occupied territories has been exhaustively treated by various bodies, including the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, established by the General Assembly. In its report to the General Assembly in November 1978, the Special Committee referred to evidence which "confirms the allegations that persons under interrogation are ill-treated and that no adequate remedies exist to safeguard such persons from abuse".

It is proper to observe here that the most abundant evidence of torture and other violations of the human rights of the Palestinians in the occupied territories has been regularly put forward by the Israeli League for Human and Civil Rights over a period of more than 10 years. It is also the fact that in recent years the Israeli press has drawn attention to numerous examples, not only of torture, but also of various forms of "inhuman or degrading treatment" exercised by the Israeli occupation authorities against the inhabitants of the West Bank and the Gaza Strip.

For a long time the press in the Western world was much more cautious in the coverage it gave to human rights violations in the occupied territories. It is difficult to find an adequate explanation for this reticence on the part of the press - and indeed, of Western Governments as well - when the evidence of such violations was so comprehensive and had for the most part been supplied by Israeli witnesses. In recent years, however, the international press has begun to overcome its reluctance to criticize the Government of Israel over so important an issue and has shown a growing concern over the evidence of widespread ill-treatment, including torture, of Arabs in the occupied territories. The most exhaustive coverage of the subject was provided, after an inquiry extending over six months, by The Sunday Times of London in June 1977. On the basis of its findings, this leading British newspaper voiced the conclusion that the torture of Arab prisoners was "widespread and systematic" and that "it appears to be sanctioned as deliberate policy".

The report in The Sunday Times did much to open to public debate on this important issue of human rights. The Israeli Government took issue with the newspaper and in Israel itself there was concern as well as indignation over accusations so far-reaching and so carefully documented. The National Lawyers Guild in the United States instituted its own inquiry into the subject and in November 1978 published a 121-page report that again concluded that torture was one of a number of oppressive measures adopted by the Israeli authorities as part of a programme whose objective was to encourage the emigration of the Palestinian inhabitants of the occupied territories.

Three months after the publication of the report by the National Lawyers Guild, the American State Department, in its annual review of human rights practices in countries receiving American aid, also took up the question of torture in Israel. Referring to the persistent allegations of the systematic ill-treatment of Arab prisoners, the State Department expressed the view - a very guarded view, but one which received widespread attention because of the American Government's generally protective attitude towards the Government of Israel, that "The accumulation of reports, some from credible sources, makes it appear that instances of mistreatment have occurred".

The Sunday Times and the National Lawyers Guild had called for an impartial investigation to examine the question of the ill-treatment of Arab prisoners in the occupied territories. The call had been taken up by other bodies and had been echoed inside Israel, where a writer in The Jerusalem Post said that "A well-investigated report by a high-level commission, headed if possible by a judge of the Supreme Court, would be welcome, whatever its verdict". That was in February 1979, but no such public investigation has yet been conducted.

Article 7 of the Universal Declaration of Human Rights states that "All are equal before the law and are entitled without any discrimination to equal protection of the law". It is not, I believe, necessary to spend much time in demonstrating that this article does not apply to the inhabitants of the occupied territories. The only law to which they are subject is the arbitrary "law" of the military Government, reinforced by the 1945 Emergency Regulations inherited from the British Mandatary Government, which is applied through military courts or by simple administrative orders from the military governor. These laws are enforced only against them; they are not enforced against the Israeli settlers who have been imposed upon the occupied territories. Indeed, it is a complaint frequently voiced by responsible Israelis that the Israeli settlers act in defiance of the law and that often they even enjoy the protection of the military Government for their illegal actions against the Arab population.

After the concerted series of car-bomb attacks on the Palestinian mayors of the three towns in the occupied West Bank on 2 June 1980, the French newspaper Le Monde carried an interview, on 19 June, with the Israeli General of the Reserve, Mattityahu Peled, a leading figure in the Sheli Party. The following is an extract from that interview:

> "Speaking of the future of democracy in Israel, Mr. Peled showed himself very pessimistic 'not simply because of the emergence of the phenomenon of Jewish terrorism, but because this terrorism has the official support of the government. The members of Gush Emunim [an extremist group of Jewish settlers in Israel] are organized on a military basis and the army supplies them with arms, ammunition and explosives. Their acts remain unpunished and I will go so far as to say that no one dreams of seeking out the guilty parties, who seem to act with the blessing of the authorities ... This state of affairs represents, without any doubt, the beginning of the collapse of the whole democratic system in Israel, for it is a matter of public knowledge that the extremists are supported by the army's Chief of Staff and by the Prime Minister personally'."

So the Israeli authorities, which react very violently against even the most minor infringements of the law by the Arabs in the occupied territories, react in a completely different way to far more serious infringements of the law when these are committed by Jews. Indeed, on the evidence of Reserve General Peled, the authorities actually support and encourage and arm these Jewish law-breakers in their assaults on the unarmed Arab population.

In other words, the law in the occupied territories has one meaning for Jews and a quite different meaning for Arabs - and this is a conclusion from which no Israeli that I know would dissent (and of which many Israelis would approve). Discrimination in legal matters, as in every other aspect of life, is indeed a natural and logical consequence of military occupation, where the law becomes an instrument to enforce the will of the occupier against the interests of the occupied.

International law, which in theory should protect the inhabitants of the occupied territories against victimization and discrimination by the military Government, is in this instance helpless, since the Government of Israel has refused to recognize that the provisions of the Fourth Geneva Convention for the Protection of Civilians Persons in Time of War[2] are applicable to the occupied territories. In this, as in many other respects, the Government of Israel is at odds with the rest of the international community and is defying the will of the United Nations. That such a situation should be allowed to persist and that the Palestinians in the occupied territories should remain, after more than 13 years, the victims of sustained and legalized discrimination, is a grave reproach to all the Governments that have signed the Geneva Conventions and voted for the resolutions of the United Nations calling on Israel to respect the Conventions in its treatment of the population of the West Bank and the Gaza Strip.

Article 9 of the Universal Declaration states that "No one shall be subjected to arbitrary arrest, detention or exile". There is no argument about this article. No one disputes the fact that any inhabitant of the occupied territories (except, of course, the Jewish settlers) is liable at any time to arbitrary arrest without any charge being proferred against him, or to administrative detention (which may last for several years) even if he has not been convicted, or even accused, of any crime. I myself know a number of Palestinians from the West Bank who have been arrested without any accusation being aimed against them, held in prison without trial for as long as three years, and eventually released without explanation or apology. The State Department report that I have referred to stated that, at the time of its publication, there were 2,149 Arabs in prison for security offences, of whom 30 were under administrative detention (meaning that they had not been charged with any offence) and that a further 360 Arab suspects were awaiting trial. So much for freedom from arbitrary arrest or detention.

Article 9 also states that no one should be subjected to "exile" and the word has of course a particularly tragic significance for the Palestinians. More than 2 million Palestinians living outside Palestine regard themselves as exiles form their homeland; their bitterest grievance is the refusal of the Israeli authorities to allow them to return and live in the land where they or their parents were born and brought up. That is another whole dimension of the Palestinian problem, which is outside the scope of this paper. What does concern us here is that since 1967 the Israeli military Government has deported well over 1,000 Palestinians from the occupied territories, against whom they had no legal complaint (if they had any evidence of any criminal offence, they would presumably have put them on trial) but whom they did not wish to remain in the territory under their control. In many instances, the Israelis clearly selected these people for deportation because they were the leaders of the Palestinian community in the West Bank and Gaza Strip and for this reason the Israeli authorities thought them likely to encourage a spirit of resistance to the occupation regime. In other words, they sent them into exile because they were patriots, whose example and leadership might prove infectious and whose removal would render the remaining population more tractable and submissive.

The most recent and conspicuous example of this practice on the part of the Israeli authorities of exiling leaders of the Palestinian community concerns the mayors of the West Bank towns of Hebron and Halhoul. It was on 2 May 1980 that these two men, Mr. Fahad Qawasmeh and Mr. Mohammed Milhem, were seized together with the qadi (Islamic Judge) of Hebron, Sheikh Rajab Tamimi, put into a helicopter with black bags over their heads, and dumped across the border in south Lebanon. There was no pretence of any legal process against them and their deportation was condemned by the Security Council of the United Nations, but this did not save them from the fate which has overtaken hundreds of others whose qualities of leadership and courage in resisting oppression have made them undesirable in the eyes of the Israeli authorities. Among those personally known to me who have suffered this particularly cruel fate at the hands of the Israelis are Mr. Rouhi al-Khatib, the Mayor of Arab Jerusalem; Dr. Walid Kamhawi of Nablus; Mr. Abdel-Jawad Saleh, who at the time of his deportation was Mayor of El-Bireh; and Dr. Hanna Nasir, President of Bir Zeit University and perhaps the most distinguished educator of his generation in Palestine. No offence was alleged, let alone proved, against any of these, but all were leading figures in their local communities. The fact that their deportation was expressly forbidden under article 49 of the Fourth Geneva Convention made no difference to the Israelis when they decided arbitrarily to send them into exile.

Article 10 of the Universal Declaration states that "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him". Those I have just mentioned were of course given no "fair and public hearing"; on the contrary, they and many others were bundled across the de facto border into Jordan, surreptitiously, in the small hours of the morning, in conditions often of considerable physical hardship, without the opportunity to communicate with their families or to settle their domestic affairs and without any legal process at all. Thousands of others have testified in the Israeli military courts that the confessions on the basis of which they were sentenced to long prison terms had been extorted from them by torture. The Israeli lawyer, Mrs. Felicia Langer, who has defended countless Palestinian political prisoners in the Israeli courts (and made herself very unpopular in Israel as a result) has published, in a book entitled With My Own Eyes, details of many such cases in which no humanitarian considerations were allowed to influence the decisions of the military courts. No one could testify with more authority than this brave and experienced lawyer to the fact that these courts can in no sense be considered the "independent and impartial tribunal" specified in article 10 of the Declaration.

Article 12 states that "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence" but that on the contrary, "everyone has the right to the protection of the law against such interference or attacks". Even those who have never visited the occupied territories, and who are too young to remember for themselves the German occupation of most of Europe, should have no difficulty in understanding how absurd such a right becomes in the context of a military occupation. The occupier, with the army behind him as the only effective authority, arrogates to himself the absolute right to interfere, at any moment and on any pretext, with the privacy of the citizens under occupation. He may do so in the pursuit of "security", a concept which can be stretched to justify every form of oppression. He may do so with the simple purpose of intimidation and it is my own conviction, based on a great deal of personal experience in the occupied territories, that this is often the purpose of the Israelis when they invade the homes or the refugee camps where the Palestinians live. But whatever the pretext, there can be no doubt about the fact: that the Palestinians in the West Bank and Gaza enjoy no freedom, by day or by night, from the threat that their privacy may at the moment by interfered with by the occupation forces. As for the law - which means simply the authority of the military Government itself - if it is used, it is not to protect them against such interference, but to enforce it.

Article 13 of the Universal Declaration states that "Everyone has the right to freedom of movement ... (including) the right to leave any country, including his own, and to return to his country". What a bitter irony this article must have in the eyes of any Palestinian! The right to leave his own country: there is no difficulty for him in that - indeed the Israelis afford him every opportunity, to put it no more strongly. But to return to his country, that is another matter. If that right could be enforced, how many thousands of Palestinians would flock back to the homes and even the refugee camps which they were "encouraged" to leave in 1967 or from which they have been deported since then?

Even the right to freedom of movement within the occupied territories is again subject to the arbitrary will of the occupation authorities. Any Palestinian's movements may be restricted by administrative order confining him to his house or his village - or, of course, deporting him altogether. The lives of whole communities may be affected by the curfews that have been such a feature of the Israeli occupation of the West Bank, sometimes to prevent and at other times to punish any signs of a spirit of resistance. I have myself witnessed several of these punitive curfews, sometimes enforced for one or even two weeks and imposing grievous hardship especially on the most vulnerable members of the community - the aged, the infirm, the mothers with small children. Even without such overtones of physical intimidation, it is evident that the concept of freedom of movement is irreconcilable with that of a military occupation.

Article 15 states that "Everyone has the right to a nationality", and that "No one shall be arbitrarily deprived of his nationality". It is perhaps difficult for us whose national identity is not in dispute, who need not fear that anyone will attempt to question our right to call ourselves Englishmen or Italians or Frenchmen, to appreciate just how poignant is the longing, or how strong the will, of Palestinians to achieve the same unquestioned acceptance. And this is the moment for me to say something which is painful but necessary for me to say.

It was my Government, it was the British, who did most to deny the Palestinians for so long the right which one day they will achieve: the right to their proper Palestinian nationality. When we are critical, as we must be, of the injustice and the brutality which characterize the Israeli occupation today, we should not forget that the struggle for Palestinian independence began more than half a century ago, when Britain was the occupying Power. Palestinian nationalism is not something new or artificial, although paradoxically, it has become much stronger and more clearly articulated with the dismemberment of the old Palestine.

This is not the time for us to discuss British policy in the days when Britain held a mandate from the League of Nations to rule Palestine. But let me just say, especially to any Israelis who may be listening, that if I am critical, as I am, of their Government's refusal to come to terms with the reality of Palestinian nationalism, I am no less critical of Britain's share in the injustice perpetrated against the Palestinians. I believe that both Governments, the British in the 1930s and the Israeli today, have behaved and are behaving in a way that is not merely brutal and unjust, but that is self-defeating. For they have stimulated the desire of the Palestinians to exercise the right which the Universal Declaration holds out as a promise to all peoples: the right to a nationality. I look forward to the day when they will enjoy it in full freedom.

Article 17 deals with the right to own property and states that "No one shall be arbitrarily deprived of his property". That sounds straightforward enough and so self-evident as to be hardly worth including in an international character of human rights. But for the Palestinians, whose situation in this as in so many other respects is exceptional, there is nothing straightforward about it and no guarantee for any inhabitants of the occupied territories that his property - especially the property that is most valuable of all to him, his land - will not be taken from him without warning and without redress.

Israel's relentless colonization of the occupied territories by the establishment of Jewish settlements on Arab land has often been described as a policy of "creeping annexation". Its political implications are clear - and they have become steadily clearer since the signing of the Camp David agreement two years ago. Hardly a week now passes without the announcement by the Israeli Government of fresh plans to establish Jewish settlements, especially on the West Bank - and this despite the repeated rulings of the United Nations and even of the Government of the United States that such settlements are illegal. Besides their damaging effect on the search for peace, these Israeli settlements clearly contravene article 17 of the Universal Declaration in that they arbitrarily deprive the Palestinian landowners of the West Bank of their property.

Here it is proper to mention that part of the United States is facilitating and encouraging the Israeli Government's programme of colonization throughout the occupied territories. The President of the United States himself has repeatedly said that his Government regards the Israeli settlements in the occupied territories as illegal and that they represent a set of obstacles in the way of the search for peace. Yet it is the enormous financial assistance which the United States provides which enables the Israeli Government to go ahead, at a time of great economic stringency, with this very costly programme of colonization. The absurdity of the American position in the matter is self-evident. It is with justification that the Palestinians hold the American Government ultimately responsible for this violation of one of their most fundamental rights: the right to retain possession of the land which has been their since time immemorial.

Article 19 states that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers". Here again it is not necessary to waste many words in explaining that the Palestinians in the occupied territories cannot enjoy this freedom. Freedom of opinion and expression is quite simply incompatible with a situation where one people is under military occupation by another. The opinions held by the Palestinians in the occupied territories, whose overriding ambition is to regain their freedom, are inevitably distasteful to the Israelis, who use every means to prevent their free expression.

The occupation authorities seek to achieve this by imposing a strict censorship on all publications circulating in the occupied territories and by preventing the circulation of other publications freely available to Israeli citizens, including the Israeli settlers on the West Bank. The censorship also applies to books and no concession is made to the principle of academic freedom. The Arab universities on the West Bank are particularly affected and are strictly controlled in the matter of the textbooks available to their students. In particular, of course, any publication which gives expression to the political and national aspirations of the Palestinians is subjected to close scrutiny and frequent censorship by the occupation authorities.

Article 20 of the Universal Declaration states that "Everyone has the right to freedom of peaceful assembly and association". The occupation authorities would be illogical if they neglected, in their control of ideas and their expression, to restrict also the right of the Palestinians under occupation to meet for the free exchange of ideas and to form political associations. The free exchange of ideas is anathema to any regime of military occupation, and the Israeli regime is no different from other occupation regimes. Its regulations strictly forbid the formation of any political association in the occupied territories and any assembly of three or more persons for the purpose of political discussion. The military governor has on many occasions enforced this regulation, even on the elected mayors of the West Bank towns who, by the positions they hold, are the natural leaders of the Palestinian community living under occupation, and so the objects of particular suspicion on the part of the occupation regime.

Article 21 states that "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives". Here we come to the heart of the matter. This is the fundamental issue where the rights of the Palestinians are concerned. If the Palestinians enjoyed the right to take part, through freely chosen representatives, in the Government of their country, they would not be subject to all the other disabilities in this sad catalogue. They would then have no need to resort to violence in pursuit of rights which all the rest of us take for granted.

But there is, of course, no question of the Palestinians under occupation enjoying this right. It is indeed their chief grievance and for 13 years they have been under the arbitrary rule of an alien regime whose authority they totally reject. If they are to regain a right to take a proper share in choosing a Government acceptable to themselves, the first and inevitable step must be the ending of the regime of military occupation. From that everything else could follow. But so long as the occupation is maintained, the right enshrined in article 21 will always be denied to the Palestinians.

Article 22 of the Universal Declaration states that "Everyone, as a member of society ... is entitled to the realization ... of the economic, social and cultural rights indispensable for his dignity and the free development of his personality". To secure this right, in all its aspects, is not easy for anyone, even in a free society. It is patently impossible for a people living under an occupation regime whose central objective, whether in economic, social or cultural affairs, is to restrict the free development of the Palestinian identity. So long as it remains the purpose of the

Government of Israel to impose its rule on the occupied territories, the inhabitants of those territories will be denied the dignity and the freedom which are their birthright.

Finally, article 28 of the Universal Declaration of Human Rights proclaims that "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized". Here it is not only the Palestinians who have a legitimate complaint. As we have seen in the context of the other articles I have enumerated, the Palestinians are deprived of many of the rights and freedoms proclaimed in the historic Declaration adopted by the General Assembly of the United Nations more than 30 years ago. But everyone of us who believes that these rights ought to be enjoyed by the Palestinians just as we ourselves enjoy them must feel that, so long as we are unable to implement this article of the Declaration, we too are deprived of the right to "a social and international order" in which these rights and freedoms can be fully realized by all. We have the right as well as the duty to urge our own Governments to adopt policies which will enable us, not merely to pursue our own national objectives, but to see that this same freedom is extended to others and in particular to the Palestinians, who for so long have suffered the indignity of living under Israeli occupation.

In his inaugural address when he assumed office as President of the United States of America, President Carter declared: "Our commitment to human rights must be absolute ... Because we are free, we can never be indifferent to the fate of freedom elsewhere". This should be the basis of our approach to the present situation in Palestine. It is because we are free ourselves that we cannot be indifferent to the fact that the Palestinians in the occupied territories are denied the same freedom. That is why we must do all we can to ensure that the disgraceful state of affairs in the territories now occupied by Israel is brought to an end.

Notes

1/ Resolution 217 A (III).

2/ United Nations, Treaty Series, vol. 75, No. 973.

F. A JURIDICAL ANALYSIS OF THE ISRAELI SETTLEMENTS IN THE OCCUPIED TERRITORIES

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International law applicable in occupied territories

Customary international humanitarian law concerning the protection of civilians in territories under belligerent occupation was developed largely in the nineteenth century. Following the war of 1812 when parts of the United States came under British occupation, United States courts defined the applicable humanitarian law, including the limitations that it placed upon the military occupant.[1] One of the clearest features of the customary law as developed in the nineteenth century was that the occupant had no authority to disturb private property rights as opposed to property belonging to the State. As early as 1833, Chief Justice Marshall stated that, even in the case of conquest (which was then a lawful method of acquiring territory), the "modern usage of nations, which has become law, would be violated" if private property were confiscated and private rights annulled.[2] The outcome of the law-making process was that the belligerent occupant had considerably less than the sovereign powers which a State may exercise over its own territory and was regarded as having only a de facto authority which was subject to various substantive limitations.[3]

The Hague Conferences of 1899[4] and 1907[5] codified the existing customary law in some respects and added new provisions that were designed to provide more protection for both the lives and the property of the indigenous civilian population of the occupied territory. Some of these provisions were law-making ones when written but today they are regarded as having become so widely accepted by the community of States that they also now reflect existing customary law.

When the Nazis in Europe and the Japanese militarists in Asia flagrantly violated the elementary human and property rights of the civilian populations under their control during the Second World War, the inadequacy of the then-existing customary and treaty law was revealed.[6] In particular, these regimes attempted to evade the application of the law by annexing territory or bringing it under the role of puppet regimes. A notorious practice particularly associated with the Nazis was the establishment of "Aryan" or "racial German" civilian settlements in the occupied territories. Sometimes the indigenous civilian populations were allowed to remain, while in other situations they were displaced by the German civilian settlers.

The Geneva Diplomatic Conference of 1949 met in the shadow of these grim events with the determination to prevent their repetition. In addition to three Conventions dealing with the subjects of protection of war victims in land warfare,[7] naval warfare,[8] and in prisoner-of-war status,[9] it produced a Convention that for the first time was devoted exclusively to the protection of civilian populations.[10] Since the main abuses of elementary civilian human rights had taken place in the occupied territories, the Fourth Geneva Convention is primarily concerned with civilians in occupied territories. This Convention has been ratified or acceded to by almost as many State parties as does the Charter of the United Nations. Its article 47 provides that the inhabitants of occupied territories are not to be deprived of the benefits of the Convention during a belligerent occupation by any changes made in the institutions or Government of the territory, or by agreements between the local authorities and the occupying Power, or by any annexation of the whole or part of the occupied territory. Article 49(6) prohibits civilian settlements in broad and unequivocal terms, without regard to the purported purpose of the settlements.

The law of the Charter of the United Nations is also relevant to a legal analysis of the Israeli settlements. There is a basic Charter prohibition upon the use or threat of force otherwise than in self-defence or with the lawful authority of the United Nations (Arts. 51 and 2(4)). This Charter principle is specified in Security Council resolution 242 (1967) of 22 November 1967 as "the inadmissibility of the acquisition of territory by war". In addition, the principle of self-determination is a basic right of peoples under the United Nations Charter (Art. 1(2)). It includes, at the least, the right of the indigenous population of a territory to determine its own political future in its own way.

The United States position

As there has been considerable interest in the position of the United States Government concerning the settlements, a brief examination of it may be useful. It is particularly significant that this Government, which has been a consistent supporter of the State of Israel, has continuously maintained the illegality of the Israeli settlements, wherever located, since the intensive hostilities of June 1967. By its resolution 465 (1980) of 1 March 1980, adopted unanimously after many weeks of negotiation, the Council:

> "Determines that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East."

This key provision, and each of the other provisions of resolution 465 (1980), are entirely consistent with prior positions of the United States Government manifested both inside and outside the United Nations. Subsequent to President Carter's statement, made more than 48 hours later, that the United States' affirmative vote was a mistake resulting from a "failure to communicate" and should have been an abstention, the Department of State submitted 40 official documents to the House of Representatives Foreign Affairs Committee that demonstrate the consistency of resolution 465 (1980) with prior positions of the Government.[11] Even if the United States had abstained on resolution 465 (1980), the legal result in the Security Council would not be changed. The United States could have cast a negative vote and blocked the resolution, but this course of action was not even contemplated.

It is more interesting to note that, although a recent move by a number of United States senators, both Democrats and Republicans, to cut aid to Israel by $150 million, a conservative estimate of what Israel is spending annually on its West Bank settlements programme, was tabled by a substantial majority, it is the first time such a move has ever been made in the Senate, which has been particularly susceptible to Zionist pressure. An editorial in an Israeli newspaper on 20 June 1980 stated:

> "What counts is not the Senate rejection of that motion but the very fact that it was introduced by a Senator who has a largely Jewish constituency whose record is not anti-Israel, and that the motion was backed by the Senate Majority Leader. All this only goes to show the extent to which the Government of Israel's settlements policy turns U.S. statesmen and public against it."[12]

Appraisal of the claims of the Government of Israel under the criteria of international law

A. Introduction to the claims

There is no question but that the overwhelming population of the West Bank is comprised of Palestinian Arabs in spite of the increasing numbers of Israeli civilian settlements that are being implanted there. This means that the Government of Israel, while exercising its own right of self-determination as claimed under the General Assembly partition resolution of 22 November 1967 (resolution 181 (II)) is violating the same right of self-determination of the Palestinian Arabs[13] who had their right specified in the same partition resolution. In addition, the Israeli-claimed permanent character of the civilian settlements also brings into application the law of the Charter of the United Nations. There have been consistent pronouncements of authorized Israeli leaders that the settlements are permanent, and there is the overwhelming primary evidence contained in the World Zionist Organization's master plan for the development and settlement of Judea and Samaria, 1979-1983.[14] The permanent character of the settlements emphasizes their basic function of acquiring territory by "the creation of facts" through military force and coercion.

All of the States involved in the recurring hostilities in the Middle East are parties to the Fourth Geneva Convention[10] which is a multilateral treaty with almost as broad a membership as that of the United Nations. In addition, the Palestine Liberation Organization (PLO) has deposited an instrument of accession to the Convention with the Swiss Government. Article 158(3) of the Convention provides that during a conflict, including an occupation, a denunciation of the Convention:

> "... shall not take effect until peace has been concluded, and until after operations connected with the release, repatriation and re-establishment of the persons protected by the present Convention have been terminated."

Since denunciation is thereby prohibited, the State of Israel has had to attempt other methods to avoid the application of the Convention. Dr. Yehuda Z. Blum, then a lecturer in international law at the Hebrew University of Jerusalem and now the Permanent Representative of Israel at the United Nations, made such an attempt in an article entitled, "The Missing Reversioner: Reflections on the Status of Judea and Samaria" in 1968.[15] The significance of this article is that the Government of Israel has adopted and acted upon each of the arguments advanced by Dr. Blum. The balance of the present inquiry will examine the Israeli claims and appraise them under the criteria of international law.

B. Ideological claims based upon politico-religious grounds

These claims are frequently formulated in terms of an alleged "divine" or "eternal" right. They apparently seek uncritical acceptance or belief and are not intended to be subject to the criteria of international law. An official version of the claims appeared in the "Guidelines" of the Likud Party as it was approved by majority vote of the Israeli legislature in the process of installing the Government of Prime Minister Menachem Begin in June 1977. Paragraph 2 of these Government of Israel "Guidelines" state: "The Jewish people have an eternal, historic right to the land of Israel, the inalienable inheritance of its forefathers."[16] To the extent that this claim has a supposed "divine" basis, it assumes the existence of a deity with a racist outlook who promotes the expulsion of the remaining Palestinians from their homes in the West Bank and the Gaza Strip because this is part of the historic "land of Israel". "The Jewish people", a term which does not appear in biblical text, refers to the Zionist-Israel world-wide claimed constituency of Jews.[17]

For present purposes it is sufficient to point out that these politico-religious claims are not made by Jews who regard their religious identity as primary, but by Zionist Jews for political purposes. Many religious Jews regard the claims as invalid and the Zionist ideological arguments as opposed to the moral precepts of universal Judaism.[18]

C. Claims that the Fourth Geneva Convention is not applicable in the territories occupied since June 1967

1. Claim postulating the necessity that the "legitimate sovereign" be displaced by the occupant

A major Israeli claim originated by Dr. Blum uses the thesis that the application of the law of belligerent occupation in general, and the Fourth Geneva Convention in particular, is based upon the presupposition that the "legitimate sovereign" of the occupied territory must have been displaced by the occupant.[19] This argument maintains that Jordan and Egypt were not "legitimate sovereigns" in the West Bank of the River Jordan and in the Gaza Strip, respectively, because they were there as a result of their alleged acts of aggression. Therefore, the Government of Israel is not required to apply the humanitarian law of the Fourth Geneva Convention for the benefit of the inhabitants of the occupied territory. The Israeli argument recognizes that article 2 of the Convention provides that: "The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party ..." but assumes, without an identified basis in law, that the word "territory" in article 2 must be narrowly construed as only including the territory over which the displaced Government has de jure title or complete formal sovereignty.[20] There are several compelling legal reasons which require that this claim be rejected.

First, Dr. Blum and the Government of Israel use an obscure method of treaty interpretation which is not known in international law, or indeed in any civilized legal system. It places no reliance upon either the text of the Convention or its negotiating history, which are the accepted primary sources for ascertaining meaning,[21] because there is nothing in either to support the claim.

Second, the claim assumes without supporting evidence that the word "territory" in article 2 of the Convention must be interpreted as being restricted to territory where the displaced Government had the complete formal title as the "legitimate sovereign". Even if the claim that Jordan annexed the West Bank unlawfully should be accepted for purposes of legal argument, this does not mean that this territory is not "the territory of a High Contracting Party" within the meaning of article 2. It has never been previously doubted that the word "territory" as used here includes, in addition to de jure title, a mere de facto title to the territory. The words "legitimate sovereign" upon which so much emphasis is placed do not appear in the Convention or its negotiating history.[22]

An interesting aspect of this claim is that much emphasis is placed upon the allegation that only two States, the United Kingdom and Pakistan, recognized the Jordanian action and this is deemed to demonstrate its invalidity. Dr. Nathan Feinberg, who is professor emeritus of international law at the Hebrew University of Jerusalem, has pointed out that this is a vulnerable argument since no States have recognized the Israeli annexation of Jerusalem - and he refers specifically to West Jerusalem.[23]

Third, the idea that, in order to apply the law of belligerent occupation, it is necessary for the belligerent occupant to recognize the displaced Government's title to the territory finds no support in either the text of the Convention or its negotiating history. In addition, it is contrary to the well-established customary law based upon State practice. For example, during the American Civil War, the United States treated territory which it claimed as the "legitimate sovereign" but which the Confederate States had held as the de facto possessor as being subject to the law concerning belligerent occupation up until the end of the war.[24] The customary international law was widely observed up until the Nazi and the Japanese militarist practices of the Second World War, and there is nothing in the Fourth Geneva Convention that changes it.

Fourth, the legal obstacle of the discredited "just war" concept which is relied upon must be raised. Dr. Blum and the Government of Israel claim the right unilaterally to categorize the opponent's title to land as being the result of aggression with the effect that civilians do not receive the protection of the international humanitarian law.[25] If the humanitarian law were to be changed so that its application was made contingent upon recognition by the belligerent occupant of the justness and the non-aggressive character of the war aims of its opponent, it is perfectly clear that the humanitarian law would never be applied. If accepted, this argument would have astonishing consequences. The argument contends that the inhabitants of the West Bank were the victims of Jordanian aggression in 1948. It is then concluded that because of this, these civilians must be victimized further by being denied the humanitarian protection of the Fourth Geneva Convention under Israeli occupation.

The fifth legal block to the acceptance of the Israeli thesis is that it frustrates the entire humanitarian purpose of the Fourth Geneva Convention. The Convention is interpreted in the claim as a treaty which is designed to protect governmental rights and particularly the right to claim disputed territory. In contrast, the Governments represented at the Geneva Diplomatic Conference of 1949 stated in the preamble to the Fourth Geneva Convention that they met "for the purpose of establishing a Convention for the Protection of Civilian Persons in Time of War". To attempt to avoid humanitarian protection for civilians by alleging the existence of non-specified governmental rights is to turn the entire Convention upside down.[26] Since the Convention was written by Governments, it is clear that the governmental rights which the Israeli claim alleges to exist would have been specified in the Convention if the Governments at Geneva had accepted their legal validity. An aspect of this claim emphasized by Dr. Blum is his insistence that the purpose of the Convention is to protect the "reversionary rights" of the "legitimate sovereign". Once again, this governmental rights claim using the term "reversionary rights" employs words that do not appear in either the text of the negotiating history. In contrast, the official International Committee of the Red Cross (ICRC) commentary on the Convention characterizes it this way: "[I]t is the first time that a set of international regulations has been devoted not to State interests, but solely to the protection of the individual."[27]

2. Claim to title to territory based on "defensive conquest"

After contending that the titles of the Arab sovereigns are deficient in one way or another, the Government of Israel then claims to have "the better title" as it is in the occupied territories as a result of what it terms "defensive conquest".[28] The concept of "defensive conquest" is unknown in international law. Even if the premise of an Israeli defensive role in the intense hostilities of June 1967 should be accepted, it is clear that under the Charter of the United Nations the rights of the defending State extend only to conserving existing interests or values and do not provide any basis for an extension of values by the acquisition of title to enemy territory.[29] Article 2 (4) of the Charter specifically prohibits "the threat or use of force against the territorial integrity of any State ..." If international law provided for an exception to this basic rule under the heading of "defensive conquest", it would prove to be an irresistible attraction for a militaristic and expansionist State.

3. Claim of unusual circumstances: sui generis

An auxiliary claim made by Israel is that the Fourth Geneva Convention is intended only for short-term belligerent occupations and is not relevant to the unusual circumstances, termed the sui generis situation, in the Israeli-occupied territories.[30] This argument amounts to a plea for an exception from the generally recognized criteria of the Convention on the ground of claimed special circumstances which, if accepted, would leave the belligerent occupant in effective control of the territories but without the applicable legal limitations. On the contrary, the provisions of the Convention were adopted in advance by all the parties, including the State of Israel, in order to be applied to all later situations of occupation. The comprehensive wording of the Convention concerning applicability specifies "all cases of partial or total occupation ..." and eliminates the possibility of exceptions.

4. Claim that the Fourth Geneva Convention has not been previously applied

This claim assumes as a fact that the Convention has never been applied anywhere else and appears to conclude that, therefore, it should not be applied by the State of Israel.[31] The short answer is that as a matter of logic, there is no reason to assume that the first time is necessarily an improper time to apply a Convention. There is, of course, no suggestion in the text or the negotiating history of the Convention that it is not applicable for the first time.

D. Claim that assumes the applicability of the Four Geneva Convention but contends that its specific provision concerning the settlements has not been violated

The sixth paragraph of article 49 of the Fourth Geneva Convention is directly in point and it provides that: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies". This broad wording, which provides for no exceptions, appeared in the draft Convention prepared by ICRC which was used as a working paper in the Geneva Diplomatic Conference of 1949.[30] The only change from the ICRC draft to the final text is that the word "civilian" in the final text appeared as "civil" in the draft. The Final Record of the Diplomatic Conference of Geneva of 1949 reveals that there were many substantive changes made in the draft Convention, including in article 49, but none were made in article 49 (6).[31] In addition, the negotiating history at Geneva provides no indication of any concern about the comprehensive wording of article 49 (6). It is significant that no suggestions were made, much less action taken, either to narrow the wording or to read exceptions into the broad wording.

Dr. Blum, nevertheless, has contended that article 49 (6) applies to only one situation, that is, the particular situation where the civilian settlements displace the population of the occupied territory.[20] He argues that this was the only Nazi practice that the article is aimed at. His contention raises a factual question since there is persuasive evidence that substantial numbers of Palestinians have been displaced from their property by the Israeli settlements.[32] Assuming for purposes of argument, however, that the Israeli settlements do not displace the indigenous population, it is appropriate to appraise the claim. At the outset there is no possibility of arguing an exception from the text, since it provides for none, and no suggestion of support for exceptions exists in the negotiating history. Professor Blum has therefore cited the most recent edition of Professor Oppenheim's text edited by Professor Lauterpacht. This text, after summarizing the terms of article 49 (6) states that it is: "... a prohibition intended to cover cases of the occupant bringing in its nationals for the purpose of displacing the population of the occupied territory".[33] There can be no doubt that this is one of the several situations covered by article 49 (6). The Nazi practices, however, were not limited to the displacement of the civilian population since it was often retained to provide cheap labour or slave labour.[8] Professor Blum interprets the quoted text as if it read that the prohibition was intended only to cover cases of the occupant displacing the indigenous population, but that of course is quite different from the text itself.

Dr. Blum does not mention article 49 (1) which, as a general rule, prohibits forcible transfers or deportations from the occupied territory whether on an individual or mass basis. The fact that this provision stands apart from article 49 (6) is a clear indication that the two are not connected or contingent upon each other. The ICRC commentary on the Fourth Geneva Convention confirms this interpretation by treating each paragraph as separate and comprehensive.[27] Therefore, it is not possible to read article 49 (1) as stating the only situation in which article 49 (6) can be applied.

It may be added that the text of article 49 (6), because of its broad meaning, contains no limitation in terms of one or more particular purposes of such prohibited settlements. If the purpose of the settlements is to be regarded as relevant, however, the basic aim of the Israeli settlements, like that of the Nazi ones, is to "create facts" that facilitate the acquisition of territory.

IV. Conclusions

There are three basic conclusions that necessarily follow from the legal analysis that has been made. The first is that the Fourth Geneva Convention is applicable in all of the territories that have been occupied by Israel since the intense hostilities of June 1967. The second is that the Israeli civilian settlements in the occupied territories are in violation of the Convention. The third is that the Government of Israel has even violated the customary law of belligerent occupation as it was developed in the nineteenth century by its actions in the occupied territories.[34] Consequently, even if the attempts to evade the application of the Convention are successful, there is no way that the customary law could be avoided.

Because the Convention concerns people and not territory and is a humanitarian convention, it should be interpreted liberally to effectuate its protective purposes.[35] In view of the universal humanitarian interests that are protected, destroying its effectiveness could be disastrous for all peoples. Those Israelis who are concerned with legitimate national interests rather than with Zionist policy of territorial expansion are well aware of this protective function of international humanitarian law. Among them, Professor Emeritus Nathan Feinberg, writing in Ha'aretz, has decisively rejected the legal arguments of the present Government of Israel as fundamentally inconsistent with Israeli national interests as well as with international law.[22] Professor Feinberg concludes that the Convention is applicable and that article 49 (6) does prohibit the Israeli settlements in occupied territories.

Article I of the Convention provides in full that: "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances." The obligation to respect a convention is, of course, commonplace. The obligation "to ensure respect", which was added at Geneva in 1949, was a significant new provision designed to enhance enforcement of the Convention. It means that if any one of the parties to the Convention violates it, the other State parties are also in violation until they take necessary measures to ensure that the violating party respects it. This is an obligation of all of the parties to the Convention, but as a practical matter, it is a particular obligation of the great Powers, including the United States and the Soviet Union. The consistent resolutions of the General Assembly calling upon the State of Israel to apply the Convention and to carry out its terms in the occupied territories[36] are a reflection of the Member States' obligation as parties to the Fourth Geneva Convention of 1949 and a start toward enforcement. Much more needs to be done to develop a fully effective sanctioning process.[37]

Notes

1/ U.S. v. Hayward, 26 Fed. Cas. 240 (No. 15,336) (C.C.), Mass. 1815; U.S. v. Rice, 17 U.S. (4 Wheat) 254 (1819); Shanks v. DuPont, 28 U.S. (3 Pet.) 246 (1930).

2/ U.S. v. Percheman, 32 U.S. (7 Pet.) 51 (1833).

3/ See Conver, "The Development of Belligerent Occupation", 4 Bull. State Univ. Iowa 3 (1912).

4/ Second Hague Convention respecting the Laws and Customs of War on Land (and Annexed Regulations) of 29 July 1989. Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University Press, 1915).

5/ Fourth Hague Convention respecting the Laws and Customs of War on Land (and Annexed Regulations) of 18 October 1907, 36 U.S. Stat. 2227, Gt. Brit. Tr. Ser. 1910, No. 9, Cmd. 5030.

6/ The paragraph is based upon Trial of the Major War Criminals Before the International Military Tribunal at Nuremberg (42 vols., 1947-1949) passim, and Law Reports of Trials of War Criminals (United Nations War Crimes Comm., 15 vols., 1947-1949).

7/ United Nations, Treaty Series, vol. 75, No. 970

8/ Ibid., No. 971.

9/ Ibid., No. 972.

10/ Ibid., No. 973.

11/ The full text of Security Council resolution 465 of 1 March 1980, President Carter's statement, and the State Department legal opinion of 21 April 1978 concluding that the settlements are illegal, are set forth in Mideast Observer No. 6 of 15 March 1980. The 40 documents were enclosures to the letter from Assistant Secretary of State Atwood to Chairman Zablocki of the House Committee, received on 12 March 1980.

12/ Ha'aretz, 20 June 1980.

13/ See W. T. Mallison and S. V. Mallison, An International Law Analysis of the Major United Nations Resolutions Concerning the Palestine Question, (United Nations publication, Sales No. E.79.I.19), chap. IV.

14/ Official Records of the Security Council, Thirty-fourth Year, Supplement for October, November and December, document S/13582, annex. See also note 32.

15/ 3 Israel L. Rev. 1968, p. 279.

16/ The Jerusalem Post, international ed., 21 June 1977.

17/ The Zionist "Jewish people" concept has been rejected by the United States Government as a concept of international law in the letter of 20 April 1964 from Assistant Secretary of State Talbot to Elmer Berger, Executive Vice-President of the American Council for Judaism, printed in 8 Whiteman, Digest of International Law, 35 (United States Department of State, 1967). This Zionist juridical concept is appraised in W. T. Mallison, "The Zionist-Israel juridical claims to constitute 'the Jewish people' nationality entity and to confer membership in it", 32 George Washington Law Review 983 (1964).

18/ See E. Berger, "An examination of the claim of zionism to divine authorization for establishing settlements", Arab Perspectives, No. 2, (May 1980), p. 24. See also E. Marmorstein, Heaven at Bay: The Jewish Kulturkampf in the Holy Land, passim (Oxford, 1969) which states the thesis that zionism and traditional Judaism are incompatible.

19/ 3 Israel Law Review, 1968.

20/ Dr. Blum repeated the same arguments in "The colonization of the West Bank territories by Israel", hearings before the Sub-Committee on Immigration and Naturalization of the United States Senate Committee on the Judiciary, 95th Congress, 1st session, p. 24 (17 October 1977). Dr. Blum also stated: "Coming now to the question of sovereignty, I would have to say this. Yes, indeed, I consider Israel as the potential sovereign over Judea and Samaria" (ibid., p. 36). W. T. Mallison presented a different legal analysis in the same hearings (ibid., p. 46).

21/ It appears unnecessary to cite legal authority to demonstrate the relevance of the text of an international agreement to the interpretation of that agreement. The negotiating history is useful as a means of providing context and background for the text. The importance of context is emphasized in M. S. McDougal, H. D. Lasswell, and J. C. Miller, The Interpretation of Agreements and World Public Order, 119ff and passim (Yale, 1967).

22/ The negotiating history of the Fourth Geneva Convention is in four volumes (numbered I, IIA, IIB and III) of the Final Record of the Diplomatic Conference of Geneva of 1949 (Swiss Federal Political Department, undated).

23/ N. Feinberg, "The legal status of the West Bank", Ha'aretz, 9 October 1977, translated in 4 SWASIA No. 27, pp. 6-7 (11 November 1977) published by National Council of Churches in the USA).

24/ United States Army General Order No. 100, "Instructions for the government of armies of the United States in the field" of 24 April 1863 contained articles 1-10 concerning belligerent occupation. These instructions are also known as "Lieber's Code" because their principal author was Prof. Francis Lieber of Columbia College, New York.

25/ In the Trial of Wilhelm List and Others, 8 Law Reports of Trials of War Criminals, 34 at 59 (United Nations War Crimes Comm., 1948), the U.S. Military Tribunal at Nuremberg held that the law of belligerent occupation was applicable in Yugoslavia and Greece without regard to the question of German aggression.

26/ The basic humanitarian purpose of the Civilians Convention is also pointed out in "Israeli Settlements in the Occupied Territories", Int'l Comm. Jurists Rev. No. 19, p. 27 passim (December 1977).

27/ 4 ICRC Commentary 77 (Pictet, ed. 1958).

28/ In the Senate Hearing, Dr. Blum cited only one authority for this argument: S. M. Schwebel, "What weight to conquest?", 64 Am. J. Int'l L. 344 (1970), who attempts to develop a concept of "defensive conquest".

29/ The customary international law of self-defence also provides no authority to acquire enemy territory.

30/ Article 49 (6) was numbered 45 (5) in the draft. I Final Record, vol. 1, p. 113 at 121.

31/ Ibid., vol. II A, pp. 759 and 760.

32/ See the testimony of Mrs. Ann M. Lesch in "Israeli settlements in the occupied territories", Hearings Before the Subcommittees on International Organizations and Europe and the Middle East of the United States House of Representatives Committee on International Relations, 95th Congress, 1st session, pp. 7-42 (including appendices) (12 September 1977). Mrs. Lesch's testimony also indicates the permanence of the settlements.

33/ 2 L.F.L. Oppenheim, International Law: Disputes, War and Neutrality, 7th ed., H. Lauterpacht, ed. (1952), 452.

34/ The Israeli violations of private property rights as detailed by Mrs. Lesch, (see note 32), constitute violations of the customary law of belligerent occupation as it was developed in the nineteenth century.

35/ Probably the most fundamental rule of interpretation is that a treaty must be interpreted so as to effectuate its basic purpose. See, for example, Harvard Research, Draft Convention on Treaties, 29 Am. J. Int'l L. Supp., pp. 937ff and especially article 19.

36/ See, for example, General Assembly resolution 34/90 B of 12 December 1979 which calls upon Israel to apply the Geneva Convention in the "Palestinian and other Arab territories" under occupation (para. 1). Only Israel voted against this resolution.

37/ The sanctioning authority is laid down in Chapter VII of the Charter of the United Nations.

G. PALESTINIANS AND HUMAN RIGHTS. A STUDY OF AFRICAN OPINIONS AND ATTITUDES TO THE PALESTINIAN QUESTION

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The continent of Africa is the home of Arabs and black people of various hues and colours. Since the end of the Second World War this continent has witnessed the rapid demise of colonialism and the emergence of independent sovereign States. As a result of the collapse of European imperial rule, Africa now has the largest number of independent States in the world. This large number of political units has given Africa a major place in international diplomacy and politics. One manifestation of Africa's growing role in international politics is its involvement in Middle Eastern affairs, and most particularly in the debate of the Palestinian question.

In the present I intend to examine the historical development of African attitudes towards and opinions on the Middle Eastern problem in general and the Palestinian question in particular. For the purpose of this study, African attitudes and opinions would be based on resolutions, declarations and communiqués of members of the Organization of African Unity (OAU) in their various meetings in Africa and at the United Nations in New York.

The paper is divided into four sections. The first part addresses itself to the first phase of African involvement in the Arab-Israeli conflict; the second deals with the shift in African opinions and attitudes against the State of Israel and with the emergence of a near unanimity of view of African States on the rights of the Palestinian people; the third section examines the role of Islamic solidarity among the African Muslim States and its impact on the perceptions of some African States of the Palestinian question; the last section offers my conclusions on the subject.

A. Africa and the Arab-Israeli problem: phase I

Any discussion of African attitudes and opinions on the Middle East problem in general and the Palestinian question in particular, must go back to July 1952 when Colonel Gamal Nasser and a group of young army officers (generally known as the Free Officers) seized power from King Farouk of Egypt. Up to that time, Egyptian leaders and Arab-Africans north of the Sahara Desert paid little attention to political matters affecting the Africans living south of the Sahara. With the rise of Nasser, however, we witnessed a significant shift in Egyptian policy. Whereas the Farouk regime had observed the invisible keep-off warning signs of colonial Powers in Africa, Nasser felt himself obligated to lend moral, material and psychological support to Africans fighting against colonial rule. He also believed that he had a responsibility to carry out the historically and geopolitically significant role of gatekeeper of Africa's northern borders. This conception of Egypt's role in African affairs was well articulated in his book, The Philosophy of the Revolution.[1] In that book, Nasser argued that Egypt lived within three concentric circles and each circle had a significant role for it to play. To Nasser the Arab, Islamic and African circles constitute what I would call a psychological trinity, which defines and determines the Egyptian identity in world affairs.

Because of this self-image, Nasser and his supporters in Egypt embarked on a campaign against the enemies of Africa and the Arab world. In his definition of the enemies of the peoples of the three concentric circles, Nasser lumped together the citizens of the newly created State of Israel and the Western imperialist Powers in the African continent. Because of this Egyptian view of Africa's enemies, Israel soon became the target of Egyptian propaganda in Africa and Israeli activities in the continent came to be seen as detrimental to both African and Arab interests. Convinced that the State of Israel was a Western creature dumped in the heart of the Arab world, and determined to nip it in the bud, Nasser braced himself for a confrontation with Israel and its Western supporters.

The first encounter took place in 1956 when France, the United Kingdom and Israel made a joint attack on Egypt. On this occasion, Africa could give no support to Nasser and Egypt because most of its territories were then colonized by Europe and only Ethiopia and Liberia were independent States. In fact, both of these African countries were members of the United Nations, and through that Organization, they gave some support to Egypt during the Suez Crisis. However, their close ties with the Western Powers inhibited them from giving full and total support to Nasser.

The Suez crisis, in my view, was a significant event in raising the anti-colonial feelings of Arab-African peoples. First of all, it should be noted that although the United Kingdom and France ruled much of the continent at the time, many an African nationalist secretly or openly sympathized with Nasser's attempt to liquidate the remnants of colonialism in Egypt. This incident must have convinced many young African nationalists that Nasser was serious about ending colonial rule and that he deserved the benefit of the doubt. This view can be supported by the number of nationalists based in Cairo in the 1950s and 1960s.[2] Secondly, one can also argue that the Suez crisis granted Nasser and his propagandists the opportunity to drum up support from fellow Muslims in sub-Saharan Africa. Indeed, Nasser did strike a responsive chord and many Muslims from areas south of the Sahara declared their willingness to volunteer for what was then perceived as a jihad (holy war) against European unbelievers. Thirdly, one can maintain that the Suez crisis catapulted Nasser into international prominence and allowed him some psychological leeway in both Africa and the Arab world.[3]

Taking the Suez crisis as a point of departure, one can proceed to argue that the African peoples became more conscious of the Arab-Israeli conflict in 1956 when their colonial masters were directly involved in the Arab-Israeli conflict than in 1948 when the newly created State of Israel fought against the Arab armies. There are many reasons why 1956 could serve as a major psycho-political landmark in African awareness of the Middle Eastern problem. As already stated above, the African nationalist groups were by then already agitating for independence. Kwame Nkrumah and his followers in the Convention Peoples Party (CPP) of Ghana were about to take over the reins of government; Sekou Toure of Guinea was a year away from his of "No" to General de Gaulle's offer of closer ties with France as opposed to genuine African independence; the Mau Mau uprising was already a fact in Kenya and its violent sounds were already reverberating in the African political firmaments. All these developments were part of the mighty stream of African independence, and Nasser and his followers certainly knew the direction the wind of change was blowing in Africa.

Another reason why 1956 could be taken as a major historical landmark in the development of Arab-African relations is that the Suez crisis served as a rallying point for all the Afro-Asian States. As one observer pointed out, "The Suez Crisis demonstrated how the use of force for settling disputes, particularly when applied by Britain and France, tended to unite the Afro-Asian States".[4] To many Africans and Asians the Suez crisis was a struggle between western imperialist Powers and the principles of the sovereignty equality of nations.

Nasser's defiance of colonial Powers over the use and operation of the Suez Canal was a significant milestone in the evolution of the concept Ali A. Mazrui called "The Principle of Continental Jurisdiction".[5] Despite the fact that Nasser was born Arab and destined to live in Africa where the greater majority of the people are black, he could still commit himself to Africa's territorial sovereignty. The Suez crisis provided a test case for Nasser's commitment to his self-defined role of gatekeeper of Africa's north-eastern frontier. This point is very important because, as can be seen in the sections below, Africa later rallied to Nasser and to his successor, Anwar Sadat, when Israel occupied the Sinai, a piece of real estate African leaders felt Israel should and must surrender to Egypt, if peace was to be maintained in the area.

But even though the Suez crisis could serve as a major historical landmark in the African struggle against foreign violations of its territorial sovereignty, the fact remains that without being fully liberated the peoples of the continent could not play any meaningful role in the resolution of the Middle Eastern problem and the Palestinian question. Africa's presence began to be felt in international diplomacy only with the decolonization of the colonial Territories. The year 1960 has been widely hailed as Africa's year, largely because a great number of African countries wiggled out of the Western colonial web and started a new life in international politics.

The United Nations has been the forum for the newly independent States since its inception; and each and every African and Asian State that obtained independence sought the legitimacy conferred by this international body.[6] Yet, while new nations obtained badges of sovereignty from such an august body, they also received additional political and diplomatic responsibilities. One of the problems that Africans found at the United Nations was the Middle Eastern problem. Although their countries were not independent when the problem arose, many of the new leaders had read about it and had developed some opinions or attitudes toward it.

One of the most interesting aspects of African views of the Middle Eastern problem is their initial ambivalence towards the two combatants in the area. As one commentator has argued, the Jewish people were not well-known to black Africans. The only Africans who had some understanding of the situation were those who had gone to Western schools and universities and had read about the Jews. But, adds our commentator, even this educated class of Africans learned about Jews through biblical accounts and the writings of such celebrated literary figures as Shakespeare and Voltaire.[7] Because of this understanding, African leaders of the independence movement initially took a somewhat neutral position towards the Arab-Israeli conflict. Many reasons have been given for such a political stance. Some have suggested that Africans did not want to fan the flames of the bipolar cold war politics of the early 1960s; others have stressed that Africans wanted to be left alone so that they could address themselves to the challenges of political engineering and economic development. Regardless of what motivated the African leaders, the fact remains that they refused to give full and total support to the Arab cause in the Middle East.

Because of this initial African reluctance to show total and enthusiastic support for the Arab dream of recapturing Palestine from the newly installed Israelis, the Israeli policy-makers found it impolitic and foolish not to capitalize on African ambivalence. Fearing growing isolation by the increasing number of Afro-Asian States, the Israelis soon sent their emissaries out to the African continent. Writing 21 years after his assignment as Israel's first Ambassador to black Africa, Ehud Avriel, a former Ambassador to Nkrumah's Ghana, puts it this way:

> "The Prime Minister explained the underlying idea: we must break out of the encirclement by a hostile Arab world and build bridges to the emerging nations on the black continent. We could not allow a situation similar to that of our relations with most Asian nations to develop. There we had been excluded from the Bandung Afro-Asian Conference in 1955. Burma at the pinnacle of her prestige was our friend. But almost every other nation on the continent we shared was not. We had more to offer to Africans than just diplomatic niceties - we were prepared to aid in their social and material development."[8]

According to Avriel, the wooing of Nkrumah and his fellow countrymen was pursued very seriously by the Israelis. Ghanaian ministers and top politicians, such as Kojo Botsio (Israel's advocate in Nkrumah's cabinet), Nathaniel Welbeck and Ras Makonen (a Diasporic black from the Americas working in Ghana), were invited to Israel. Apparently they were schooled indirectly on things and experiences that make blacks and Jews members of the world community of suffering as well as fellow believers in the Abrahamic message.[9]

This bid for African support proved successful and by 1969, 32 African States had diplomatic ties with Israel and about 20 had cooperative treaties with it.[10] Israel's success was a result of many factors and we can list a few for the purpose of the present study. First of all, Israel was seen as a small country and so could not be imagined as a threat to African security.[11] Secondly, Israel had benefitted from the successful campaign of the Zionists in the world media that they had regained and revived old Zion through the transformation of the Palestinian desert into an oasis of peace and prosperity.[12] There were, thirdly, those who believed that many African leaders were suspicious of Arab motives and intentions and, for this and other related reasons, encouraged the Israeli courtship of Africa south of the Sahara. Evidence for this view is almost always based on the widely quoted remarks of Chief Obafemi Awolowo of Nigeria. This leader of the opposition in Nigeria has written that black Africans should not extend the circle of brotherhood to include the Arabs in North Africa simply because their loyalties to Africa are suspect. According to him, Arabs have double loyalties and when the chips are down they are most likely to identify with their brethren to the east.[13] Last but not least, there were those observers and commentators who attributed what was widely described in Western newspapers as the "Israeli miracle in Africa" to sheer industry and competence. Those who espoused such views found evidence for their argument in the popularity of Israeli technical assistance experts in most of Africa south of the Sahara.[14] Between 1957, when Nkrumah's Ghana became independent, and 1973, when Israel began to suffer diplomatic and political setbacks in Africa, many African ministers attended conferences and symposia in Israel. Israelis went into business partnership with African Governments and the most significant project in this category was Nkrumah's decision to establish the first African shipping company ever.[14] The Black Star Lines cooperated with the Israeli Zimm Company.

Other Israeli projects included water works in Nigeria, youth training in the Ivory Coast (now Côte d'Ivoire), the introduction of the lottery system in Sierra Leone and the training of military and security forces in Zaire, Uganda and Ethiopia. Israeli technical assistance was also evident in the work of Soleh Boneh, the Histadrut Construction Firm. She was also very actively involved in the establishment of Nachal-type settlements to stem the tide of rural exodus in many African countries. The training of paramedical personnel who could offer first aid to injured persons was another venture of Israel in Africa. The Israelis also provided expertise to African countries like Ghana, whose leaders had decided to encourage poultry farming. They also provided technical assistance to Senegal in beehiving and in many other areas.[15]

The Israelis were able to woo and win African support largely because of their determination to prove themselves better than any of their western rivals, be they Peace Corps from America or Voluntary Service Overseas (VSO) from the United Kingdom. Indeed, one could say that, if their Masada complex was the motivating force behind the Israeli people during the last 30 years, then their Messianic complex played an important role in their work in Africa.[16]

B. The shift in African opinions and attitudes towards Israel

As noted above, the first decade of African independence revealed close ties between Israel and many African States. This state of affairs was changed by a train of events that can be traced back to the June 1967 war. Prior to that time, Israel successfully outmanoeuvred its Arab rivals in Africa. The Arab States like Egypt tried their very best to convince the African States that Arab interests were in many respects Africa's interests. To prove that politically sensitive point, they argued that Israel was a European problem planted in Arab soil, that the liquidation of Jewish people in Germany and beyond was the work of a European called Hitler and they (the Arabs) must not be called upon to pay for Germany's sins, and finally, that Israel was a Western Trojan horse sent into the Arab world to stifle Arab attempts at self-definition and self-development. These arguments were effectively and eloquently put forth by Egyptian delegates to African and United Nations conferences. At the first conference of independent African States, held in 1958 at Accra, the Egyptians tried to rally African support for the Arab cause in the Middle East. This drive was partially stymied because of the cautious policies of African radicals like Nkrumah and the moderate if not very conservative policies of the Haille Selassies and the William Tubmans. In retrospect, one could argue that the Egyptian attempt to lead Africa against Israel was unsuccessful in the 1960s because of a number of factors. First of all, the contradiction in the Pan-Africanist message exposed both the black Africans and the African Arabs to Israeli manipulation. Sensing that some interpretations of the Pan-Africanist message implied a correlation between blackness and Africa - a view generally held by almost all conscious readers of the world press, the Israelis and some Africans contended that Arabs were not Africans and hence should be treated as long-established invaders. This view of the Arabs was based on a distortion of African history and an exaggeration of Arab atrocities during the slave trade. Another reason for the failure of Arab diplomacy in Africa in the early 1960s was caused by the polarization within the African political community itself.[17] The arrival of a large number of independent French-speaking African States complicated the problems associated with the embryonic African diplomacy of unity. These former French colonies were closely tied to their metropolitan ex-master and for this and other related reasons they shied away from Nkrumah's and Nasser's rhetoric of aggressive anti-colonialism. To lend institutional support to their views of the world, they eagerly organized themselves into what was called in 1960 the Brazzavile Group (officially named the Union of African States and Malagasy (UAM)). This organization became a moderating factor in African international politics. Almost all of its members resisted the radicalism of the Nkrumahs, the Toures and the Nassers, who grouped themselves under what was called in 1961 the Casablanca Group. Named after the Moroccan city of Casablanca, this informal organization symbolized the radical African opinion during the Congo crisis. What distinguished this group from its rival, UAM, was its strong and consistent support for Patrice Lumumba during the imbroglio in the Congo.

The formation of the Casablanca Group was significant in many respects but for the purpose of the present study, I will mention only two points. Foremost in our consideration should be the fact that it was at the formation of this group that the Egyptians and Arabs scored their first psychological victory against Israel. The African radical States of Ghana, Guinea and Mali, along with the Arab-African Stages in the Casablanca Group, endorsed a resolution denouncing Israel "as an instrument ... of imperialism and neocolonialism, not only in the Middle East but also in Africa and Asia".[18] Although the Israeli policy-makers pressed for and obtained an explanation from Nkrumah on the Ghanaian vote, the fact remains that this resolution made it abundantly clear that Islamic solidarity and radical Pan-Africanism together constituted the greatest threats to Israeli diplomacy in Africa. This view of the Casablanca resolution at the time was not evident to most observers; it became clear only in later years.[19] Another significant fact about the Casablanca Group was that the Arab-African States of the Libyan Arab Jamahiriya, Tunisia and the Sudan did not give full and total cooperation. One would have expected their support for the Arab cause through some form of participation in the Casablanca Group. Yet, in making such an assumption, one must recognize the limits set by realities to political cooperation even among Arab-African States. A classic example of Arab disunity was the war of words and nerves between Morocco and Mauritania in the 1960s. The former's claim over the latter's territory made it difficult for their common membership in the Casablanca Group. Such a state of affairs led Mauritania to seek friends and allies south of the Sahara. Indeed, the feud between the two Arab-African States dramatized both the low degree of solidarity among Maghrebi States and the failure of Arab diplomacy to coordinate their foreign policies in Africa and the world.[20] This fratricidal tendency among the Arab States in North Africa also manifested itself in the Arab east, weakened Arab diplomatic unity and hence gave Israel the opportunity to consolidate her gains in Africa and to muffle Arab protests about the Palestinian question.

It is of course against this background that one could understand Nasser's decision not to press for African support on the Middle Eastern question at the founding of the Organization of African Unity (OAU) in 1963 at Addis Ababa. At that conference, Nasser shied away from introducing the matter because he had been bitten many times by his African colleagues who wished not to be dragged into the Arab-Israeli conflict.

In assessing the reasons for the shift in African opinions and attitudes towards the Arab-Israeli conflict in general and the Palestinian question in particular, one must see the Israeli victory of June 1967 as a major historical landmark. Contrary to Professor Adeoye Akinsanya's view that "the isolation of the Casablanca Bloc at the Monrovia Summit forced President Nasser to reconsider his African policies and bring them into line with those of the majority of African States, namely, the Monrovia Bloc",[21] the historical record seems to show that Nasser did not deradicalize his politics. Rather, he desisted from appealing directly to African leaders for support. Indeed, he refused to table for discussion the Arab interests in the Middle Eastern question and left his colleagues at the May 1963 OAU summit meeting at Addis Ababa with the following words of political prophesy:

> "... We shall not submit this problem for discussion at the meeting, in the conviction that progress of free African endeavour will, through trial, reveal the truth day by day and lay it unmasked before the African conscience."[22]

Following the 1963 summit meeting, the Arabs continued to build up their structures of cooperation with the Africans. Nasser's Egypt, for example, unilaterally undertook an Arab response to Israeli activity in Africa. In the 1950s and 1960s Egyptian export/import companies established branches in many African countries. The Egyptian authorities undertook many projects in Africa and signed many economic agreements. To counteract what Egyptian diplomats perceived as Israel's evil designs in Africa, i.e., Israel's sponsorship of conferences and other development and nation-building programmes, they too organized numerous conferences in various fields. The most significant ones were the Afro-Asian Economic Conference (1958), the Conference on Economic Development Problems (1962) and the First Industrial Conference for African States (1966).

Egyptian efforts to contain Israel were not very successful because of the absence of effective coordination of Arab diplomacy. While the Maghrebi States were divided over one issue or another, the relations of States within the Arab east were not very good either. The wave of Nasserism in the Middle East was fiercely resisted by the conservative Arab monarchies of Jordan, Saudi Arabia, the Libyan Arab Jamahiriya and the small sheikhdoms still under British protection.[23] These countries were targets of radical Arabs who wished to see more agreeable fellows representing their countries in the caravan of pan-Arabism. Owing to this fear of political annihilation, they paid lip service to the Palestinian cause while taking all measures to contain unruly and politically dangerous forces in their countries.

These developments in both North Africa and the Arab Middle East combined to put an effective brake on Nasser's drive to make the Arab cause part and parcel of the African interest. Egypt's quarrel with Saudi Arabia certainly helped divide the Islamic forces in Muslim Africa. As a result of their war of words, which later heated up into a full-scale war in Yemen, African Muslims began to take sides. The Saudi response to Egyptian propaganda against the House of Saud resulted in the establishment of bodies and instruments of propaganda comparable to what Nasser had in Egypt. For example, in response to Nasser's Voice of the Arabs, the Saudis put up their own Voice of Islam. Again, to counteract Nasser, they also set up their own body (Rabetah Al-Alam Al-Islami) to match Egypt's Supreme Council on Islamic Affairs.

These fratricidal feuds prevented the Arabs from coordinating their policies and projecting a more positive image of themselves in the world. Indeed this, together with the pre-1967 global perception of Israel as underdog, is largely responsible for Arab lack of success in Africa in the early 1960s. The changing of such conditions soon gave the Arabs a new image and a good sense of solidarity in Africa in particular and in the third world in general. Israel's victory in 1967 and its gradual entanglements with racist South Africa combined to change its image in Africa and the third world.

Looking at the Afro-Asian attitudes towards the Middle Eastern conflict, an Arab writer has identified seven factors which he believes are contributory to Israel's loss of African support: (a) Africans began to see Israel not as an underdog but as a formidable foe for the Arabs; (b) Israel's refusal to accept United Nations and OAU resolutions calling for its withdrawal from Arab lands; (c) The rise of feelings of Islamic solidarity among peoples in Muslim countries of the world; (d) France's decision to take a more neutral stance in the Arab-Israeli conflict affected some of Africa's French-speaking States; (e) greater Arab use of OAU as a platform for the Arab cause; (f) the increasing Arab emphasis on the right of return of the Palestinian people and on its right to self-determination, independence and national sovereignty; and (g) Arab economic aid to Africa.[24]

With the benefit of hindsight, the above-mentioned author could give us all seven factors as explanations for the changes in African perceptions of the Arab-Israeli conflict. However, one can argue that the gradual drift towards greater African identification with the Arab cause began with Sekou Toure's decision to send a message of solidarity to the Egyptian people in their struggle against Israel. In that radio message, broadcast in May 1967 over Radio Conakry, the Guinean President told his Egyptian fellow nationalist that he was quite ready to put the Guinean Popular Army at the disposal of Egypt and the Arab cause. Toure's message of solidarity, which reached Nasser some days before the eruption of the June 1967 war, was most certainly distasteful to Israel. Since President Toure has been a very active and decisive third world leader, it would be unfair to dismiss his radio broadcast as a propaganda ploy. The Israelis, it should be noted, certainly took notice, and it is not surprising that Israeli-Guinean relations reached the lowest point soon after the June war.

This Guinean example was not followed immediately by other African States; but the radical elements in Africa and in the world began to attack Israel more severely and frequently. This denunciation of Israel by world radicals was more pronounced in Afro-Asian and third world forums than in all-African gatherings. At the 1966 Tricontinental Solidarity Conference held at Havana, with a heavy Afro-Asian attendance, the delegates passed one of the most sweeping anti-Israel resolutions ever presented at a non-Arab forum. The resolution called for the severance of political ties with Israel; the imposition of an economic and cultural blockade; the expulsion of Israel from international organizations; the combating of Zionist infiltration and penetration; the cancellation of agreements with Israel; and the granting of material and financial aid to Palestinians. The resolution also warned against Israeli technical assistance "as a new disguised method of imperialism and neocolonialism of the United States". Such a resolution certainly influenced Sekou Toure's Guinea, for, as is well known now, Guinea participated effectively at that conference. The conference itself took place at a time when Guinea's prestige as a revolutionary State in Africa and the third world was very high. It should also be pointed out that in 1966, Guinea's Sekou Toure offered asylum to his friend and comrade, Kwame Nkrumah, after he was overthrown by the Ghanaian armed forces. This coup d'état was viewed in radical circles as an event masterminded by Western and Israeli intelligence services. Also, it should be noted that Guinea was the host of the Partido Africano da Independência da Guiné e Cabo Verde (PAIGC) of Amilcar Cabral, one of the most effective speakers at the Tricontinental Conference.

Against this background one could argue that President Toure's message of solidarity with Egypt was an attempt to reconcile his Government's policy on the Middle East and the resolutions adopted by the Guinean delegation to the

Tricontinental Conference. Furthermore, one could also maintain that the Tricontinental Conference was, in retrospect, a harbinger of what we now see in international politics, for it granted the Palestinians a forum to put across to the world their view of the situation in the region. This conference was also significant in another respect. That is to say, it committed the liberation groups in Africa to support the Palestine Liberation Organization (PLO) and hence increased the number of State supporters of the Palestinian cause when those groups seized power in the 1970s from Portugal, Spain and France.

Writing on the impact of third world radicalism on African-Israeli relations, the prominent African political scientist, Ali A. Mazrui, states that African radicals have been more pro-Arab than any other African political group. Mazrui identifies a number of factors that he believes could explain the cooling off of relations between radical African States and Israel. First in his list is the fact that Israel "was too much a part of the Western world;"[25/] secondly, that Israel fits the general pattern generally associated with settler colonialism, and that the significant fact that "made Israel look suspect to black radicals was the link which the Israelis had with regimes in southern Africa; and the diplomatic record of Israel on issues connected with southern Africa".[25/] Mazrui further argues that the "old commitments to create a Jewish State had produced unintended similarities with certain aspects of the official ideology of white-dominated South Africa".[26/] In developing his arguments on why radical Africans had severed their ties with Israel, Mazrui continues on to say that by the early 1970s the Israelis were terrified at the prospect of living in a binational State, a fact largely resulting from the growing Arab population through natural birth and, ironically enough, through Israel's own annexation policies in the West Bank.

This increase in the Arab Palestinian population, Mazrui contends, puts Israel in a morally difficult position, for how can the Israeli authorities deny the Palestinian Arab the right to return except on the basis of "a racial or ethno-cultural exclusivity ... [which has] resulted in forms of repression against Palestinians living outside Israel which sometimes bear comparison in their immorality with what has happened in South Africa".[26/] To the fact that the "logic of apartheid" is similar to "the logic of zionism", Mazrui adds two other factors which he also believes led to the severing of African ties with Israel: (a) that African radicals are trans-Saharan in their pan-Africanism, and their identification with the African continent leads them logically to identify with the Arab cause; and (b) that the Arabs were in the vanguard of anti-imperialism in the third world, and that countries such as Egypt, the Syrian Arab Republic and Algeria have been major participants in movements for third world liberation.

The factors identified by Mazrui may partially help us to understand the radical African decision to break ties with Israel. But since we wish to understand the forces and factors that led to the general African drift towards the Arab cause, let us follow the train of major historical developments in African-Israeli relations. First of all, we know that by 1968, Africans had begun to sympathize with Egypt over its loss of the Sinai. Evidence for this view can be gleaned from the 1967 and 1968 OAU resolutions, which in many respects were similar to those taken by the United Nations General Assembly.

In addition to the general support for Egypt, there was beginning to emerge a new sense of understanding of the Palestinian question. Whereas up to the early 1960s the Arab-Israeli conflict was confined to the struggle between Israel and the independent Arab States, by 1968 even the moderate Arabs were showing some appreciation of the Palestinian problem.[27/] This is certainly true of the Maghrebi States, which had paid no serious attention to the Palestinian question for a national identity. With regard to the African States, the year 1968 served as another milestone in their long journey to understand the Arab cause in Palestine.

President Habib Bourghiba, himself a Maghrebi Arab and the leader of the Tunisian people, set the new pace of political thought in Africa about the Palestinian question.[28/] At a news conference on 28 April 1968, the Tunisian President made a point which was soon to reverberate again and again in the firmaments of African political debates. He told a reporter interviewing him that:

> "Up to last summer [1967], it [the Arab-Israeli conflict] was purely a question of relations between Arab countries and Israel. Since last June, however, the situation has changed one of the factors - the most important one, in fact, has been the emergence of Palestinian resistance. The Palestinian people, who used always to depend on the Arab countries, has started to rely on itself, in other words, has started to exercise control over its own destiny ... The problem today, more than at any time in the past, is how to get rid of a classic form of colonialism such as Tunisia, Algeria, Morocco, Kenya and other countries have experienced."[28/]

President Bourghiba's statement made it clear that zionism in Palestine was one form of settler colonialism, and the list of countries cited at his news conference punctuated his point. This new theme on the Palestinian question, it should be noted, was quickly picked up by the Arab media and soon became a part of the political vocabulary of the Arab States. Although the idea expressed by President Bourghiba was in circulation, it took a few more years to gain acceptance in sub-Saharan African political circles. Only Mauritania, a country very much a bridge between black Africa and Arab Africa, seized upon the idea and, during a 1968 visit to the Syrian Arab Republic, former President Moktar

Ould-Dadah signed a joint communiqué which echoed President Bourghiba's words and continued on to "express support for the Palestinian brothers in their struggle against" what they believed to be "Zionist-imperialist aggression".[29] They also agreed that "Israel is a racialist-colonialist base established by imperialism in the heart of the Arab homeland to ensure military, political and economic domination and to control the resources of the area". They further expressed the conviction that "armed popular struggle is the most effective way of confronting the challenges of colonialism and imperialism and the ambitions of zionism ...".

The time lag in the African acceptance of the Tunisian statement on the Palestinian question became evident in the statements of the African delegates to the United Nations General Assembly. Inspite of the growing disillusionment with Israel's diplomatic posture, African States, and most particularly the moderate majority, were still willing to serve as go-between for the Israelis and the Arabs. President Senghor provided the philosophical justification for the African role as mediator in the conflict when he stated that blacks, Jews and Arabs were all members of a community of suffering. In his own words, Jews, Arabs and blacks constituted "the trilogy of suffering".

This African understanding of the Middle East question persisted from 1967 to 1973. During this period the African leaders at OAU and the General Assembly passed resolution after resolution condemning Israeli intransigence and calling upon it to withdraw to pre-1967 boundaries and accept the mediation efforts of Gunnar Jarring, the United Nations special representative charged with the arduous task of bringing both the Arabs and the Jews to the negotiating table.[30]

In examining the evolution and development of African attitudes and opinions on the Middle East question, we must bear in mind that the shift towards the Arab side was gradual and cautious. A study of the voting behaviour of 33 sub-Saharan African States on issues relating to the Middle East conflict, shows that African countries, in so far as voting patterns on draft resolutions in the General Assembly are concerned, could be divided into five clusters. The first group, consisting of Burundi, the Congo, Guinea, Mali, Nigeria, Senegal, Uganda, the United Republic of Tanzania and Zambia, gave overwhelming support to Arab countries and hence could be labelled the backbone of the pro-Arab lobby within the African group of States at the United Nations.

The second cluster was made up of Botswana, Dahomey (now Benin), Ivory Coast (now Côte d'Ivoire), Lesotho, Liberia, Malawi, Rwanda and Madagascar. This second cluster gave their votes to pro-Israeli matters discussed and voted upon at the United Nations. The third cluster of Cameroon, Chad, Ethiopia, Kenya, Mauritius and Niger only rarely voted in a manner directly favourable to Israel. In the majority of cases, according to Ran Kochan, Susan Aurelia Gitelson and Ephraim Dubek, the overall tendency of this cluster was toward abstention; but when it voted directly, it did so in favour of the Arabs.

The fourth cluster, consisting of Swaziland, Gabon, Gambia and Ghana often refrained from voting in a pro-Arab manner. This cluster preferred abstention or absence while such matters were voted upon at the United Nations. The fifth cluster, which included Sierra Leone, Togo, Upper Volta (now Burkina Faso), Central African Republic and Zaire, voted for pro-Arab resolutions calling for Israeli withdrawal to pre-1967 boundaries in exchange for a political settlement of all the issues relating to the Middle East problem. The members of this cluster also voted in favour of Israel on resolutions that were a one-sided condemnation of Israel. Based on their study, the three researchers concluded that the votes of this last cluster showed that the members voted almost equally for either Israel or Egypt.[31]

A re-examination of the above-mentioned clusters show that the Arab cause and the issue of Palestinian identity were stifled if not voted against by the second and fourth clusters. The first cluster gave Israeli diplomacy an important moral and psychological boost at the United Nations where Communist States were beginning to join the Afro-Asian countries in denouncing Israeli intransigence over its withdrawal from occupied Arab lands.

The countries listed in the second and fourth clusters were at this period in African political history headed by very conservative leaders who were either victims of geography and history or political circumstances and history. Three countries, Botswana, Lesotho and Swaziland, were and still are geopolitical hostages of South Africa, and for this and related reasons, the links between Israel and South Africa would steer them towards a cautious, if not strong, pro-Israel voting record at the United Nations. The voting record of Ivory Coast and Liberia could be explained in terms of their conservative leadership, which deplored some of the violent tactics used by the Arab Palestinians to give global exposure to their plight. It should be noted also that it was the Governments of Ivory Coast, Ghana (under Busia), and Liberia that tried to encourage some form of dialogue with Africa's political leper, South Africa. Given the diplomatic posture of these three Governments during the period studied by the three researchers mentioned above, one could expect such Governments to push some form of Arab-Israeli dialogue. The voting behaviour of countries like the Gambia, Dahomey, Gabon, Malawi, Madagascar and Rwanda could also be explained. The Gambian leadership was very much preoccupied with the viability and survival of this tiny African country and at the time saw the Israelis as a good example of a people determined to safeguard their small territory against many odds.[32] Being a conservative moderate and not subjected to any Pan-Islamic pressures at home, President Jawara could afford a pro-Israeli policy. This changed, however, when Arab and Muslim pressures mounted. Between 1968 and 1973, he changed his religion and began to build bridges into the Arab world. A similar phenomenon is found in Gabon. During the 1968-1973 period, President Omar Bongo of Gabon embraced Islam and began to open himself to Arab influences. This became more evident in the post 1973 period when Gabon became a full member of the Organization of the Islamic Conference, although the Muslim population in Gabon is not significant enough to justify such membership.

In case of Dahomey, Malawi and Madagascar, we can say that domestic political considerations together with certain external factors motivated the leaders of these countries to vote along pro-Israel lines or abstain from voting altogether. For example, President Hastings Kamuzu Banda of Malawi, who by this time was considered an outcast in African political circles, found his country in an isolated position very much similar to that of Israel in the Middle East. In another sense, one could say that Banda's flirtations with both Israel and South Africa made him, in Arab and African eyes, the best man at the wedding of apartheid and zionism.

The Rabat summit of 1972 was a major landmark in the gradual shift of African opinion in the Middle East conflict. At this conference, the Assembly of Heads of State and Government of OAU recalled its 1971 resolution (AHG/Res.666 (VII)) on "Continued aggression against the United Arab Republic", and expressed dissatisfaction with Israeli attitude towards the peace process under Gunnar Jarring's initiative. They also called upon the Hebrew State to withdraw to pre-1967 boundaries. Last but not least, the African Heads of States and Governments called upon 11 States Members of the United Nations to intensify their actions, in both international forums and the Security Council and General Assembly, to take all initiatives for the immediate and unconditional withdrawal of Israel from the Arab territories and the condemnation of Israel". This resolution was not altogether new, since OAU resolutions adopted since 1967 had called for Israeli withdrawal. What is significant about the Rabat summit was its decision, apparently supported by those African States listed in clusters 2 and 4 of the study cited above, to push for the condemnation of Israel in international forums.

This African change of heart could be traced back to the abortive peace efforts of the Committee of Ten selected by the OAU summit held at Addis Ababa in 1971.[33] The Committee was charged with the task of working out a framework for peace between the Arabs and the Israelis. As a result of its deliberations, a four-man sub-committee headed by President Senghor was empowered to visit Cairo and Tel Aviv.[33] Reporting on the progress of this African peace initiative headed by his President, the Senegalese Foreign Minister, Mr. Amadou Karim Gaye, told the United Nations General Assembly in 1971 that the purpose of the OAU mission had been to establish contacts with the parties in order to help towards the resumption of Ambassador Jarring's mission under Security Council resolution 242 (1967). He added that the main concern of OAU was the implementation of that resolution and he listed the areas of concern the two sides were willing to discuss. This optimism of the African peacemakers was not borne out by the train of developments and, as noted above, the African States voted solidly to condemn Israel. It has been pointed out that the Rabat summit was significant in the sense that the resolution of condemnation "was moved by Ivory Coast, perhaps the most pro-Israel State in the continent", and at a time when "two thirds of the OAU member States then maintained diplomatic and economic relations".[34]

The Rabat summit was the beginning of a new relationship between Africa and the Middle Eastern countries. The death of Nasser in 1970 left a big political void in the region and his newly installed successor, President Sadat, was either underrated or thought to be less of a threat to conservative forces in both Africa and the Arab world. This perception of President Sadat in the third world countries gave rise to two things. In conservative Arab and African circles, a groping for understanding with Egypt started and President Sadat soon began to hobnob freely with conservative Arab leaders. This rapprochement aided in the Arab search for self-pacification and self-understanding. Old wounds were allowed to heal and new strategies worked out on the Arab front. Similarly, on the African side, the death of Nasser and the emergence of Sadat provided an opportunity for the conservatives and moderates to push for peace. Indeed, it is against this background that one could understand, first, the emergence of greater Muslim solidarity and, second, the growing African feeling of disillusionment with Israel. As shown in the next section, the departure of Nasser from the scene enabled the Saudi leadership to make peace with the new Egyptian leadership under Sadat. This arrangement facilitated the propagation and development of the Saudi brainchild, the Organization of the Islamic Conference. It also brought together the Muslim groups and personalities in Africa whose loyalties were previously divided between Egypt's Nasser and Saudi Arabia's King Faisal. This new sense of Egyptian-Saudi unity and of greater Islamic solidarity was best symbolized by the appointment of Egypt's Hassan Touhami as Secretary-General of the Organization of the Islamic Conference.[35]

The success of President Sadat in the Arab east was not replicated in the Maghrebi. There the brief honeymoon with Colonel Qaddafi of the Libyan Arab Jamahiriya was to end in bitterness. The political squabbles between the two Arab-African rulers, triggered partly by the Libyan's assertions of his claims as Nasser's true successor, began to take effect in African-Arab relations. A few weeks before the 1973 OAU summit, the Libyan leader made serious accusations against the Ethiopian leaders and called for the boycotting of the summit. These acts of the Libyan leader ruffled some African feathers but did not prevent any African country from attending. Inspite of the political uproar created by Colonel Qaddafi's remarks, the 1973 OAU summit proved to be the most important expression of African support for the Arab cause. The African heads of State reaffirmed their previous position on the Middle East and stated that "respect for inalienable rights of the Palestinian people is an essential element of any just and equitable solution of the Middle East problem", but watered down the guarantee of the sovereignty, territorial integrity and independence of every State in the region embodied in Security Council resolution 242 (1967).[36]

The 1973 resolution was taken partly because another Maghrebi Arab leader, the late President Houari Boumediene, appealed to the African conscience to see that the Palestinian people were in the same boat as those Africans living under settler rule in southern Africa. What Boumediene did was to kill two birds with one stone. Not only did he call upon African leaders to fulfil Nasser's political prophecy, a fact he himself might not have been aware of at the time, but he also took President Bourghiba's words at the celebrated press conference of 1968 to its logical conclusion. That is, according to the Algerian leader, "Africa cannot adopt one attitude towards colonialism in southern Africa and a completely different one towards Zionist colonization in northern Africa".[37]

The final acceptance by the African States of this Arab argument for Palestinian rights and the Arab cause in general became most evident in the statements and deeds of African leaders just before the October 1973 war. Early in 1973, President Mobutu Sese Seko of Zaire stated in a press interview to Israel's continued occupation of African territories in the light of African policy and from loyalty to African origins.[38] This statement of President Mobutu was significant at the time because he was generally regarded as one of the closest friends of Israel in Africa. This change of heart therefore could be explained in terms of his vigorously promoted philosophy of *authenticite*, a public policy that placed greater emphasis on the African origins of Zaireans. Indeed, one could argue that Mobutu's decision to give greater and more outspoken support to Egypt and the Arab cause was probably an extension of his domestic policy of *authenticite*. This African feeling of solidarity with Egypt and the Arabs reached its highest point soon after the eruption of the October war of 1973. In retrospect, we can see that except for Guinea, none of the independent African States severed ties with Israel between 1967 and 1971. It was only in 1972 that Uganda, Chad and Congo (Brazzaville) broke relations with the Jewish State; and these countries had domestic and international reasons for doing so. In the case of Uganda, President Amin's brief marriage with Israel turned sour and he quickly sent its diplomats packing to minimize the dangers he feared Israeli presence constituted to his regime. A similar fear of Israeli subversion motivated their sudden departure from Burundi, where an abortive coup was somehow linked to Israeli diplomats. The case of Chad has been attributed to the successful diplomacy of King Faisal, whose aggressive policy of moderation and of Islamic solidarity lured President Tombalbaye into the Arab camp. Some commentators have suggested also that Colonel Qaddafi's generous offer of aid to the impoverished Republic of Chad tilted the balance in favour of the Arabs.[39]

Regardless of the factors that motivated the particular African leaders, the fact still remains that between 4 January 1973 and New Year's eve of 1974, 25 African States had broken diplomatic relations with Israel. By 1974, only four African States had not done so. These were Lesotho, Malawi, Swaziland and Mauritius. As pointed out earlier, in our discussion of black African States' voting patterns at the United Nations on issues relating to the Middle East, the small countries of Lesotho and Swaziland were among the geopolitical hostages of South Africa whose decisions could not but reflect South Africa's interest in maintaining an Israeli-Afrikaneer axis. Mauritius' case is also based on domestic considerations. At the time of the severing of ties with Israel, the Mauritius Government faced economic and political problems that delayed its action on the matter. It was also believed that the Government was very much inhibited by its close economic ties with both Israel and South Africa.

Since the breaking of diplomatic relations by the African States, the Arabs have continued to score more and more psychological and moral victories in the United Nations and OAU conferences. African and Arab States have developed greater solidarity and new avenues of cooperation have begun to emerge. One such avenue was the Afro-Arab summit, held at Cairo in March 1977. At that meeting, the Arab States offered to provide about $2 billion to facilitate African development. Prior to this first meeting of Arab and African leaders, the African States, working within the framework of their own OAU, had called upon the Arab States to use their oil weapon against Africa's enemy in the white redoubt in southern Africa. This African request was accepted by the Arab leaders at their Algiers summit of Arab heads of State in November 1973. Another area of Arab success in pushing the Arab cause and the Palestinian question is at the United Nations. According to a recent study on the United Nations and the rights of the Palestinians, "1974 marked the beginning of a new phase of the United Nations' approach to the Palestine problem, since the Organization reassumed responsibility for the present realities prevailing in the Middle East by virtue of its own 1947 decision to partition Palestine and to create a Jewish State therein".[40] This new phase was a result of two major developments in international affairs: (a) the growing power and wealth of Arab oil-producing countries enabled the Arabs to impose an oil embargo in 1973/74 under King Faisal's leadership; and (b) the changing fortunes of Israel in Africa raised the Arab diplomatic stocks in international conferences.

A clear indication of third world and African support for the Arab and Palestinian cause was the adoption of United Nations General Assembly resolution 3236 (XXIX) of 22 November 1974. In this resolution, the Assembly once again put the Palestinian question in the mainstream of global diplomatic thought, granted observer status to the PLO and invited it, as the legitimate representative of the Palestinian people, to participate in the sessions, conferences and work of all organs of the United Nations.[41] As a result of the above-mentioned resolution, the Palestine issue has now come to permeate all major committees of the United Nations General Assembly (with the exception of the legal committee), subsidiary committees and commissions, as well as agencies.[42]

Another landmark in the history of African attitudes and opinions on the Middle East question was United Nations General Assembly resolution 3379 (XXX) of 10 November 1975, in which the Assembly equated zionism with racism.[43] This was a major breakthrough for Arab diplomacy. It was indeed the culmination of a series of victories that dated back to the 1966 tricontinental conference at Havana, where the most sweeping resolution against Israel ever was adopted by a non-Arab body. The resolution on zionism could also be traced back to a United Nations debate on anti-semitism. What led to such a debate was United Nations General Assembly resolution 1906 (XVIII) of 20 November 1963 requesting that priority be given to the preparation of a convention on the elimination of all forms of racial discrimination.[44] Responding to this General Assembly request, the United Nations Commission on Human Rights, at its 1964 session, adopted a preamble and seven operative articles on the basis of a preliminary draft prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. During that session, the debate over anti-Semitism erupted. It started immediately after the United States delegation, responding to a statement by a representative of a Jewish organization, proposed to include in the Convention a new article condemning anti-Semitism. This proposal was followed by a Soviet amendment to the effect that nazism, neo-nazism and all other forms of discrimination be similarly condemned. When the proceedings of the Commission were passed on to the General Assembly via the Economic and Social Council, the matter came to the attention of the Third Committee of the General Assembly. During this session of the Third Committee, the Soviet Union included zionism in its list of forms of racial discrimination. This was seriously contested by the Israeli delegate; but when the matter was finally resolved, a compromise resolution submitted by Greece and Hungary, and deleted of any specific references, carried the day with a roll-call vote of 80 in favour to 7 against.[45] In retrospect, one can argue that the Soviet amendment at the Third Committee's session was a prologue to the drama that was played out seven years later at the United Nations. It was a significant amendment because it undermined the Israeli attempt at convincing the United Nations membership of the validity of their claims that anti-Semitism was indeed a form of discrimination.[46]

Since 1967, one can argue, the African countries have gradually drifted towards a pro-Arab policy at OAU and the United Nations. Although these African States seem to have been more cautious in their own councils than at other international forums, there is evidence to show that African States contributed in the post 1973 period, to the passage of many United Nations resolutions favourable to the Arab cause. Two classic examples would suffice here. The first was the passage of General Assembly resolution 2443 (XXIII) of 19 December 1968, by which the Assembly established the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories. This Committee, consisting of three member States, was told, among other things, to conduct a research and fact-finding on the issues involved.[47] The Secretary-General of the United Nations was asked to provide the Special Committee with all necessary facilities and the State of Israel was called upon to cooperate. The first two countries to represent Africa in this Committee were Somalia and Senegal. The former later opted out because of an apparent conflict of interests when it was admitted to the League of Arab States. Since its inception, this Committee has had an African member, and one can only expect its Afro-Asian members to use as another third world instrument of policy in the Middle East.

The second Special Committee, which resulted from the greater expression of solidarity between the Arab and African States, is the Committee on the Exercise of the Inalienable Rights of the Palestinian People. Founded some five years ago, this Committee has played an important role in the promotion of wider understanding of the Palestinian cause. Its first Chairman, a Senegalese, not only pursued his task with great seriousness, he also made sure that the decisions taken by his Committee were understood and supported by the United Nations General Assembly and all other organs that were responsive to the interest of the Afro-Asian States. For example, at the Committee's 23rd meeting, on 9 August 1977, the members decided that the United Nations should issue a series of commemorative stamps relating to the question of Palestinian rights. Not only did the Committee Chairman push for the adoption of the idea of commemorative stamps, he also sought the cooperation of other third world organizations to help get the idea across to the Governments of the world.

In concluding this section of the paper, I would argue that Arab diplomatic successes at the United Nations were not only a result of changing times at the United Nations, they were also attributable to a community of interests between Arabs and Africans that was beginning to develop. Africans have a settler problem in southern African and Arabs feel that Israel is a latter-day South Africa that deserves condemnation and containment.[48] Arab success could also be attributed to their new affluence, especially in the oil-producing countries, and their greater coordination of foreign policy. The best indication of this new sense of Arab power and unity was the 1973-1984 oil embargo against the Western friends of Israel. Viewed in this light, one can therefore argue that the United Nations victories of the Arabs were reflections of the changing self-image of the Arab on the mirror of the international community. It was also due to this development that United Nations Ambassador Patrick Moynihan, a pro-Israeli United States diplomat, felt uncomfortable in the midst of his third world colleagues;[49] it was also in response to these changing times at the United Nations that Israel's United Nations Ambassador Haim Herzog dismissed the world body as a "world centre of anti-semitic prejudice".[50]

C. Development of Islamic solidarity and African attitudes and opinions on Palestine

Although the starting point of the present Muslim Risorgimento and the creation of an intra-Islamic organization goes back to 1926, when for the first time an Islamic congress was held at Cairo, and to 1931, when Muslims meeting at Jerusalem committed themselves to the defence of Arab Palestine and to the Holy City of Jerusalem, the fact remains that the institutionalization of the concept of global Islamic solidarity became a reality only in the late 1960s and the early 1970s.[51] As pointed out earlier, the idea was attractive to the Saudi leadership of King Faisal. He not only lent it full support but also used it to bolster his family's prestige and power in the Islamic world. In the present case, we can argue that King Faisal's single-handed promotion of the idea not only gave concrete form to an idea long weakened by fratricidal bickerings, it also rekindled the fire of Islamic solidarity among many African Muslim leaders whose secularist path to power had taught them to play down religion in both domestic and international affairs.

Indeed, one could take the 1972 African tour of King Faisal of Saudi Arabia as the beginning of the re-Islamization of those African countries whose voting record at the United Nations did not show any strong feeling for the Arab cause. As we have seen above, the States of Gambia, Chad, Niger, Cameroon, Gabon and Upper Volta were not consistently pro-Arab in the period studied by the researchers mentioned in the previous section of this paper. Following King Faisal's visit to Uganda, Chad, Niger and Senegal, a gradual shift became evident. Although President Milton Obote's Uganda had voted in the late 1960s with the first cluster of pro-Arab African groups at the United Nations, by 1972 it had become much closer to the Arabs, following President Amin's brief honeymoon with the Israelis. President Idi Amin indeed made history when he obtained membership for his predominantly Christian country in the Organization of the Islamic Conference. Soon after Faisal's visit to their region, Niger, Cameroon and Upper Volta, with large Muslim populations, began to take active part in Islamic conferences. Senegal, whose political leadership is quite aware of the long-standing power and influence of the Islamic brotherhoods in their country,[52] had started to participate in Islamic conferences much earlier, and its active and effective role in Islamic politics was until recently best symbolized by the presence of its former Foreign Minister, Mr. Amadou Karim Gaye, in the Islamic Secretariat, where he was Secretary-General for many years.

The small republic of the Gambia was one of the latecomers in this rank of African Muslim States seeking membership in the Organization of the Islamic Conference. It all started in the early 1970s when President Jawara decided to attend the Lahore Conference of Muslim Heads of State and Government. This conference was well attended by representatives from both radical and moderate Muslim African States. Although one could say that the radical African States of Mali and Guinea were already supporting the Arab cause and that Islam was not a factor in their voting at the United Nations, the fact remains that the 1970s witnessed not only the emergence of a greater sense of Islamic solidarity among African and Arab Muslim States, but also an unusual but cautious alignment between global radicalism and Islamic militancy. The numerous resolutions adopted at the annual Islamic Foreign Ministers conferences clearly demonstrated the Muslim concern for Palestine.[53] The establishment of a fund for Jerusalem by the Organization of the Islamic Conference testified to its commitment.

It is indeed against such background that one can understand the sweeping changes in African voting patterns at OAU, the United Nations, the Organization of the Islamic Conference and other international forums. Viewed in this context, one could say that the Palestinian issue is now receiving greater world attention because the issue is now identified with the interests of diverse political groups in the world. The Muslim groups are willing to give support to the Palestinian cause largely because Jerusalem is considered top priority in their scheme of things. Unwilling to accept the total annexation and Judaization of the Holy City and committed to transferring the headquarters of their organization from Jeddah in Saudi Arabia to Jerusalem in present day Israel, the members of the Organization of the Islamic Conerence, be they Arab or non-Arab, have now developed emotional and political interests in a matter previously relegated to the province of secular politics.[54]

Another point to be noted is that the Palestinian cause has consistently been supported by third world radicals and also recently by Communist States. This expression of support is in some cases linked to expression of Islamic solidarity. A classic example in recent African history is the case of the former Portuguese colony, Guinea-Bissau.[55] Although Guinea-Bissau does not have a Muslim majority in its population, and inspite of its previous commitment to third world radical support of the Palestinian cause, its leaders have found it politically useful to marry Islamic solidarity with African radicalism in their Middle Eastern policy. At the risk of being rash, I would say that Guinea-Bissau's success in wringing out financial aid and concessions from its Arab friends in the Organization of the Islamic Conference is a testimony to the fact that third world radicalism has now developed in the Middle East, a common cause even with the conservative Muslim States. This in a significant way is the partial fulfilment of Nasser's old dream of welding together the variegated psychological and material elements contained in his celebrated three concentric circles.[56]

Conclusion

The present study has traced the history of the evolution and development of African opinions and attitudes towards the Middle Eastern problem in general and the Palestinian problem in particular. What emerges out of this study is that African opinions and attitudes changed gradually through time. The first decade of African independence revealed African ambivalence towards the crisis, and for this and other related reasons Israel was able to capitalize on it and successfully outmanoeuvred its Arab rivals. Related to the above point is the fact that until 1967, African leaders accepted Israel as an underdog. But the lightning speed at which Israel defeated the Arab armies and the fact that it refused to withdraw from occupied Arab lands combined to change Africa's perceptions of Israel. Again, Israel lost out to the Arabs in the diplomatic ballgame because of its growing ties with South Africa and the series of indiscretions committed by Israel in its relations with various African leaders and States.

In concluding this paper, one must state that the 1969 burning of the Al-Aqsa Mosque in Jerusalem exposed one of the political Achilles' heels of Israel to the snarp lances of Islamic solidarity. This incident not only provoked Muslim militants abroad, it also provided the anti-Israel Arab propagandists the opportunity to rally around their banner those Muslim States whose leaders had for long taken it for granted that religious should be on the back-burner of international politics.

Israel, I would conclude, was inevitably bound to suffer the blows of third world radicalism and of Islamic solidarity, largely because its 1967 victory over the Arabs made it very difficult for Africans to continue their flirtations with it. In the fact of Israeli occupation of Egyptian land in the Sinai, Africa could not but sever its ties with Israel. Africa's commitment to the principles of territorial integrity and of fraternal solidarity with Egypt made it virtually impossible for Israel to continue its diplomatic venture in the continent. Last but not least, one could also conclude that Israel's diplomatic setback in Africa was a result of the growing belief in African circles that the Zionist is no different from the Boer custodian of apartheid.

Notes

1/ Gamal Abdul Nasser, The Philosophy of the Revolution (Buffalo, New York, Economic Books, 1959).

2/ For some discussion on Egypt's African circle, see Peter Mansfield, Nasser's Egypt (Middlesex, England, Penguin Books Ltd., 1965), chap. 6.

3/ John Hatch, A History of Post-War Africa (London, Andre Dentsch, 1965), p. 363.

4/ Faouk A. Sankari, "Afro-Asian policies and the Middle East", Journal of the Middle East (The Middle East Research Centre, Ain Shams University, Egypt), vol. 4, 1977, p. 81.

5/ Ali A. Mazrui, Pax Africana (Chicago, Illinois, University of Chicago Press, 1967); and Colin Legum, "The growth of Africa's foreign policy: From illusion to reality", in Robert K. A. Gardiner, M. J. Anstee and C. L. Patterson, Africa and the World (Addis Ababa, Oxford University Press, 1970), pp. 48-65.

6/ Thomas Hovett, Jr., Africa in the United Nations (London, Faber and Faber, 1963); and Vernon McKary, Africa in World Politics (New York, Harper and Row Publishers, 1963), especially chap. 2.

7/ Elliott Skinner, "Diplomatic relations between the African States and Israel", in Sulayman S. Nyang, ed., Seminar Papers on African Studies (Washington, D.C., African Studies and Research Program, Howard University, 1974), pp. 141 and 142.

8/ See Ehud Avriel's memoirs, entitled "Some minute circumstances", The Jerusalem Quarterly, No. 14 (Winter, 1980), p. 28.

9/ Israeli propagandists in Africa used to remind the Africans that Theodor Herzl, the Zionist founding father, saw the solution of the black man's problem as the next challenge to Jews immediately after the resolution of the Jewish question.

10/ Sankari, op.cit., p. 82.

11/ Arnold Rivkin, Africa and the West (London, Thomas and Hudson, 1962), chap. 5.

12/ For an examination of this view and its implications for the Palestinian question, see Johan Galtung, "Conflict theory and the Palestinian problem", Journal of Palestine Studies, vol. 2, No. 2, p. 36 ff.

13/ See Adeoye Akinsanya, "The Afro-Arab alliance: A dream or reality", Lagos Notes and Record, vol. VI, 1977, pp. 29 and 30.

14/ See Mordecai E. Kreinin, Israel and Africa: A Study in Technical Cooperation (New York, Frederick Praeger, 1965), especially chap. 1 where political and economic reasons for Africa's decisions to have ties with Israel are given. See also S. S. Nyang, "Israel and the African States", a paper presented to the African Heritage Studies Association, New York (April 1974).

15/ Nyang, op.cit.; Mohamed A. El-Khawwas, "Africa and the Middle Eastern crisis", a paper presented to the African Heritage Studies Association,New York (April 1974).

16/ Masada was a small fortress in Palestine where the Jewish nationalists put up a fierce struggle against Roman imperialism. It became a symbol of resistance to the leaders of the Zionist movement in recent times. For some discussion on the Messianic idea in Judaism, see Gershon Scholem, The Messianic idea in Judaism (New York, Schocken Books, 1978).

17/ For some discussion on the various political groupings in Africa, see A. Ajala, Pan-Africanism (London, Andre Deutsch, 1974); and McKay, op.cit., chaps. 6 and 7.

18/ For the resolution taken by the Casablanca Group, see Ajala, op.cit., pp. 354 and 355.

19/ Ali A. Mazrui has been one of the few commentators on African affairs who see Islam as a radicalizing factor in African politics and economic policies. See the chapter entitled "Islam and radicalism in African politics" in his Political Values and the Educated Class in Africa (Berkeley and Los Angeles, University of California Press, 1978), pp. 134-152.

20/ For discussion on Arab diplomacy, see Boutros Ghali-Boutros, "Arab diplomacy: Failures and successes", in George N. Atiyeh, ed., Arab and American Cultures (Washington, D.C., American Enterprise Institute, 1977), pp. 221-236. See also his comments on Khalid Monsour's paper in the same volume.

21/ Akinsanya, op.cit., p. 39.

22/ Quoted by Tareq Ismael, The UAR Policy in Africa; Egypt's Policy under Nasser (Evanston, Illinois, Northwestern University Press, 1971), p. 69.

23/ For a discussion on Saudi/Egyptian rivalry, see A. I. Dawisha, Egypt in the Arab World; Elements of Foreign Policy (New York, John Wiley and Sons, 1976), chap. 4.

24/ Sankari, op.cit., pp. 84 and 85.

25/ Ali A. Mazrui, Africa's International Relations: The Diplomacy of Dependency and Change (Boulder, Colorado, Westview Press; and London, Heinemann, 1977), p. 139.

26/ Ibid., p. 140.

27/ For a discussion of the efforts of President Habib Bourghiba to settle the Middle East question, see Samuel Merlin, The Search for Peace in the Middle East; The Story of President Habib Bourghiba's Campaign for a Negotiated Peace Between Israel and the Arab States (New York, Thomas Yoseloff, 1968).

28/ Following his abortive efforts at resolving the Middle East problem, President Bourghiba made a shift in favour of the Palestinians. For this new position, see his news conference remarks at Carthage, 26 April 1968.

29/ See the joint communiqué issued on President Ould-Daddah's visit to the Syrian Arab Republic, Al-Thaura (Damascus), 13 November 1968.

30/ For African attitudes and opinions, see OAU resolutions for 1967-1973.

31/ See Ran Kochan, Susan Aurelia Gitelson and Ephraim Dubek, "Black African United Nations voting behaviour on the Middle East conflict", The Jerusalem Journal of International Relations (The Hebrew University of Jerusalem), vol. 1, No. 2 (Winter, 1975), pp. 21-52.

32/ For some of the factors motivating Gambian leaders, see my "Gambia: A State in search of viability", Africana Marburgensia, vol. VIII, 1975.

33/ For some discussion of OAU mediation effort, see Yassin El-Ayouti, The Organization of African Unity After Ten Years; Comparative Perspectives (New York, Praeger Publishers, 1975), chap. 10.

34/ Akinsanya, op.cit., p. 39.

35/ This information on the Islamic solidarity drive in Africa is based to some extent on my experience and observations as a senior African diplomat in the Middle East.

36/ Akinsanya, op.cit., p. 40.

37/ See Ajala, op.cit., p. 312.

38/ Press interview statements by President Mobutu of Zaire outlining his attitude concerning relations with Israel. Originally published in Al-Ahram (Cairo), 9 March 1973, p. 4.

39/ See Victor T. Levine and Timothy W. Luke, The Arab-African Connections: Political and Economic Realities (Boulder, Colorado, Westview Press, 1979), pp. 12-13.

40/ Regina Sharif, "The United Nations and Palestinian rights, 1974-1979", Journal of Palestine Studies, vol. IX, No. 1 (Autumn, 1979).

41/ PLO participation in the United Nations Economic and Social Commission for Western Asia (ESCWA) has provoked many international legal thinkers to write critically about it. See, for example, Theodor Meron's "The composition of the United Nations regional economic commission and PLO", The International and Comparative Law Quarterly, vol. 28, part 1 (January 1979), 4th series, pp. 52-64.

42/ For a Palestinian perspective, see Sharif, op.cit.; for an Israeli perspective, see Valentine J. Belfiglio, "The United Nations and the question of Palestine", International Problems (Israel), vol. XIV, Nos. 3 and 4 (Fall, 1975).

43/ For an Israeli perspective on the vote on the resolution, see Abba Eban, "Israel, anti-Semitism and the United Nations", The Jerusalem Quarterly, Fall, 1976, pp. 110-120.

44/ See N. Lerner, "Debate on anti-Semitism and zionism in the Third Committee of the United Nations General Assembly", International Problems, vol. IV, Nos. 1 and 2 (January-June 1966), pp. 56-64; and Roberta Cohen, "The discussion on anti-Semitism in the United Nations Human Rights Commission", International Problems, vol. V, Nos. 1 and 2 (April 1967).

45/ It should be noted that Ivory Coast abstained meeting on the grounds that nazism, the major cause of the Second World War, was not singled out for special condemnation.

46/ Arab delegates have consistently opposed Israel's efforts to get anti-Semitism condemned as one major form of discrimination. One of the Arab points is that they too are semites and must not be called anti-semitic by Israel.

47/ For a critical analysis of such fact-finding bodies of the United Nations system, see Thomas M. Franck and H. Scott Fairley, "Procedural Due Process in Human Rights Fact-Finding by International Agencies", American Journal of International Law, vol. 74, No. 2 (April 1980), pp. 308-345.

48/ For a polemical and scholarly treatment of zionism as colonialism and racism, see Fayez A. Sayegh, Zionist Colonialism in Palestine (Beirut, Palestine Liberation Organization, September 1965); Maxine Rodinson, "Israel and the Arabs", in Alan R. Taylor and Richard N. Tettle (eds.), Palestine: A Search for Truth (Washington, D.C., Public Affairs Press, 1970), pp. 130-153; see also Zionism and Racism (proceedings of an international symposium held at Tripoli) (New Jersey, North American, 1979).

49/ See Daniel Patrick Moynihan, "The United States in opposition", Commentary, vol. 59, No. 3 (March 1975), pp. 31-44. For a rebuttal from a third world diplomat, see "Moynihan at the United Nations", Third World Quarterly, vol. 2, No. 3 (July 1980), pp. 520 and 521.

50/ A/PV.2423, p. 46-47, quoted in Sharif, op.cit.

51/ For a discussion of Arab-Islamic influence in Africa, see L. Kropacek, "The Influence of Islam and Arab thought on Africa south of the Sahara today", a paper presented at a 1969 conference on inter-relations in Asia and Africa held by the Czechoslovakian Society for Eastern Studies. The proceedings were published by the Czechoslovakian Academy of Science, 1970. See also Tareq Ismael, "Religion and UAR African Policy", Journal of Modern African Studies, vol. 6, No. 1 (1968), pp. 49-57.

52/ See Lucy Behrman, Muslim Brotherhoods and Politics in Senegal (Cambridge, Massachusetts, Harvard University Press, 1970).

53/ For samples of these resolutions, see The Resolutions of the Islamic Foreign Ministers Conferences, Islamic Secretariat, Jeddah, Saudi Arabia.

54/ For the Muslim view of Jerusalem, see A. L. Tibawi, "Jerusalem: its place in Islam and Arab history", in Ibrahim Abu-Lughod (ed.), The Arab-Israeli Conflict of June 1967: An Arab Perspective (Evanston, Illnois, Northwestern University Press, 1970), pp. 10-38.

55/ For Guinea-Bissau's Middle East policy, see Africa Contemporary Record, Annual Surveys and Documents, 1978-1979 (New York, Africana Publishing Company, 1979).

56/ I do not intend to state here that Nasser's foreign policy for Egypt, especially with regard to Israel, has worked out. In fact, ironically, the present alliance between third world radicalism and Islamic militancy has resulted in the isolation of Egypt from what Nasser called the Arab and Islamic circles.

H. PALESTINIAN HUMAN RIGHTS IN THE CONTEXT OF THE HISTORICAL DEVELOPMENT OF THE ZIONIST MOVEMENT

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1. The Zionist movement and the origin of the State of Israel

Introduction

Violations of human rights of a people cannot adequately be understood unless viewed in the political and historical context in which they occur. Such violations do not occur in the abstract but are a function of the political and social objectives of the agents that commit them.

Therefore, in assessing the cumulative effect (or the potential cumulative effect) of a particular regime's violation of rights, attention should be directed not only to the intensity of those violations as they occur in a particular period, or to the frequency with which specific violations occur. Special attention must also be given to the ultimate objective being pursued through the violation of rights.

Thus, as a study of Palestinian human rights is approached, it should be made clear from the outset that the question of Palestinian human rights cannot adequately be discussed simply in terms of numbers of political prisoners or as lists of acts of torture or as numbers of acres of land confiscated. This paper will therefore not merely catalogue the repression against the Palestinians living in the occupied lands. Rather, it will seek to understand them by attempting to place these acts in the political and historical context in which they occur.

This leads, at the outset, to an examination of the nature and intent of the agent responsible for the violation of Palestinian human rights: the Zionist movement and its political embodiment, the State of Israel.

While some Israeli apologists today hesitate to use the term "settler colonialism" to describe their State, the founders and historical pillars of the Zionist movement were not so timid.

Political zionism (as distinguished from "cultural" and "religious" zionism) was a nineteenth century colonial movement of some European Jews whose dream was simply to found an exclusive Jewish colony in Palestine.

Early Zionist thinkers waxed poetic as they described their historic mission to transform the "empty and desolate" Holy Land into a thriving refuge, which would make possible the ingathering of the world's Jewry. Zionism was their dream - the national liberation movement of the Jews.

In the words of Israel Zangwill, and of the founders of this movement, it was a movement begun by "a people without a land" in search of "a land without a people".

Their "vision", however, was only partially accurate, for while it was true that their colonial movement had no land, the land they "found" did in fact have a people. In the early period (at the end of the nineteenth century), when the Zionist movement set its sights on Palestine, it was populated by approximately 550,000 Arabs.

The existence of the Arab in Palestine once recognized presented no small problem to the hopeful colonizers. The Zionist solution to this "problem", as we shall see below, was to plan for the evacuation of the Arabs from Palestine. But the presence of the Arab--this "spoiler" of their dreams of conquering and colonizing Palestine was to haunt both the Zionist founders and their descendants. In a very revealing study, A Psychohistory of Zionism, Jay Gonen summarizes the views of a number of major Zionist thinkers as they address the "Arab problem" and he concludes that in the main their attitude toward the Arab was to fantasize:

> "Would it not be wonderful if Palestine, the game reserve for the Jews, were free of an Arab problem the way the game reserve for animals in South Africa is? The underlying feeling tone seems to be for the Arabs to go away, for the Arab question to disappear. One must build a protective shelter around one's ardent beliefs, for if one were to listen to the Arab problem and all the other problems, one might give up the whole project. Thus it is better to ignore certain unpleasant facts. Maybe they will go away, as one continues to realize one's dreams."[1/]

To be sure, there were early Zionists like Ahad Ha'am who spoke of the "great mistake" of ignoring or attempting to displace or encroach on the Arab "natives".

But visionaries like Ha'am lost out to the more powerful leaders of political zionism like Chaim Weizmann and Zeev Jabotinsky who, though they were in disagreement in some areas, were in agreement that the troublesome Arab should not be allowed to be an obstacle to the Zionist colonial venture. For them, the solution to the "Arab problem" was merely a question of establishing sufficient force to still the Arab and secure their goal. Jabotinsky, for example, wrote of this in an essay entitled The Iron Law in 1925:

> "If you wish to colonize a land in which people are already living, you must provide a garrison for the land, or find a benefactor who will maintain the garrison on your behalf ... Zionism is a colonizing adventure and, therefore, it stands or falls on the question of armed force."[2]

It was this troublesome fact - that Palestine already had a people - that turned the "dream" of this so-called "Jewish national liberation movement" of zionism into a nightmare of colonial repression for the native Arabs of Palestine. For given this contradiction, fulfilment of the Zionist "dream" in Palestine could only be realized by the displacement and/or expulsion of the native Arab population. And this was, as we shall see, the task the Zionist organization set out to accomplish.

Thus while the language of political zionism spoke of "the dream of and independent Jewish nation" and "the vision of a redeemed Jewish people", this "dream" and "vision" were not intended for the native Arabs. For them, the reality of zionism, as they experienced it, was quite another matter.

(b) The colonial designs of zionism

Political zionism, as a movement, developed in Europe in the midst of the epoch of the imperialist conquest of Africa and Asia, and its ideology clearly reflects this period.[3] It sought to convert and recruit the Jewish people of Europe to support a movement that would colonize and settle Palestine.

From the outset, its plan was to establish an European Jewish colony--that would bring civilization to the "savage" world. The European Jewry who were to be the "bearers of this civilization" were, in the words of Max Norday (one of zionism's founders), "a people more industrious and more able even than the average European, not to speak at all of the inert Africans".[4]

While the founders of this movement shared with their European contemporaries a racist contempt for the rights of the peoples of Asia and Africa, and while they had the will to establish a colony in either of these two continents, they lacked the means to accomplish this end. Thus, after having agreed in 1898 that they would seek to gain hold of Palestine, in order to gain possession of this land, zionism had to seek out each of the European imperialist Powers of the day, in search of patronage that would support its plan. Toward this end, Theodor Herzl, the founder of the Zionist Organization, courted in turn the Ottoman Sultan, Bismarck and the German Kaiser, and even the Russian Czar.[5]

When it became clear, however, that Great Britain would have the dominant hand in international affairs, the Zionist concentrated their efforts on winning British support for their colonial scheme. Herzl wrote to the British colonialist Cecil Rhodes, whom he termed the "colonial expert" (because of his efforts in colonizing south and east Africa), seeking both his advice and his seal of approval.[6] He felt that with Rhodes' approval he would be better able to convince Great Britain to support his movement.

The British, however, needed very little convincing. They had designs of their own on Palestine and had as early as the middle of the nineteenth century recognized the potential role that Jewish colonization could play in the fulfilment of their Middle East ambitions. They therefore became willing patrons of the Zionist movement. Speaking on this subject in 1876, Lord Shaftesbury addressed his colleagues in Parliament:

> "Syria and Palestine will before long become very important ... The country wants capital and population. The Jews can give it both. And has not England a special interest in promoting such restoration? It would be a blow to England if either of her two rivals should get hold of Syria ... Does not policy there ... exhort England to foster the nationality of the Jews and aid them to return ... to England then naturally, belongs the role of favoring the settlement of Jews in Palestine."[7]

A more straightforward summary of the British imperial design for the Arab East was given in 1914 by the prominent and influential military-political editor of the Manchester Guardian. In an essay on the Palestine question, he concluded:

> "That on general strategic grounds it is exceedingly desirable that the present too contracted frontiers of Egypt should be extended ... that a buffer-state in Southern Syria might be expected to work with equal effectiveness as in India, and with greater smoothness ... and that if this buffer-state became a

> dominion or genuine colony it would be a source of great strength to us in the Eastern Mediterranean, both political and ultimately military; and finally, that the only possible colonizers on a great and worthy scale in Palestine are the Jews."[8]

Thus the fit between the British and Zionist designs was so perfect that Max Nordau commented that if political zionism hadn't existed, "Britain would've invented it".[9]

The term "colonialism" is used to describe the policy of several of the European imperial powers of this period to conquer, and then administer and exploit foreign lands and people. In a few instances large colonial settlements (of Europeans) were established by these Powers and then utilized as the instruments of conquest and administration. This was the case, for example, in the French colony in Algeria, and Cecil Rhodes' African colonies. This form of "colonialism" is termed "settler colonialism" in order to distinguish it from the more typical form of "colonialism" found for example in the late nineteenth and early twentieth century British rule of Egypt and India, areas where large settlements of civilians were not used to maintain control.

The Zionist colonial scheme in Palestine is a unique form of "settler colonialism". This is so for one significant reason. While the British wanted control of Palestine and the Zionist movement was to be their agent, the Zionists did not with to merely administer the colony and exploit the native people of Palestine. They sought to replace them.

Thus, given this intention, from the very outset of this movement the question was asked: What to do with the Arabs of Palestine?

The British idea, in keeping with their three-century-old imperial tradition, was to simply move in ignoring the wishes of the native people, and, if necessary, to repress them. Lord Balfour, the author of the infamous declaration that formally pledged British support for the Zionist colonies, wrote that:

> "In Palestine we do not propose even to go through the form of consulting its inhabitants as to their wishes--Zionism ... is of far greater importance ... than the desire and prejudices of the 700,000 Arabs who now inhabit that ancient land."[10]

Herbert Sidebotham, waxing more philosophical, expressed the same thought this way:

> "It is a false view of democratic principles which holds that because a race or nation happens to occupy a certain territory, that territory is its own for all time. Nor has any race the absolute right to determine its own future at the expense of some other race which may have more to give to the world."[11]

All of this suited the Zionist founders well. When they finally acknowledged the presence of a large Arab community in Palestine, Herzl and Nordau never envisioned their "pure race" coexisting with what they identified as those "near savages". They might be used for a short time as beasts of burden. Herzl write in his Diary that: "... If we move into a region where there are wild animals to which the Jews are not accustomed, for example, big snakes, I shall use the natives to exterminate them".[12] Then he adds that with that job done, the natives would be evacuated to nearby countries.[13]

That their colony be exclusively Jewish - in the words of Israel Zangwill, one of Herzl's colleagues, "as Jewish as England is English" - was important to the Zionists not only for their own designs. It also described the role they envisioned that their colony would play in the world order. One of Herzl's pledges to the imperialist Powers in his manifesto The Jewish State was that he would ensure that his colony would be " a rampart of Europe against Asia ... an outpost of civilization against barbarism".[14]

This theme occurs with great frequency in the writings of early Zionist thinkers. For Moses Hess, a "socialist" and "Zionist idealist", zionism was to be the "civilizing agent" that would extend European commerce and know-how to the East.[15] For Max Nordau, zionism would extend the "moral borders of Europe to the Euphrates".[16]

Jabotinsky saw it natural that the Jew perform this function since he viewed the Jew as a "European race" and zionism as an expression of "the cultural might of Europe".

> "In every East-West conflict, we will always be on the side of the West, for the West has represented a more superior culture than the East over the last 1,000 years ... and today we are the most prominent and loyal bearers of the culture ... our interest lies in expanding the British Empire even further than intended by the British themselves."[17]

For the leaders of the Zionist movement, it was important that this role for their "colony" be projected, so that it would remain defended by the West. Thus, in the midst of the 1936 Arab national strike in Palestine, when the Palestinian resistance against the Zionist-British efforts to displace them was at its peak, Weizmann issued an appeal to the West. In his appeal he portrayed the conflict in Palestine in this way.

> "On the one side (the Arabs) the forces of destruction, the forces of the desert ... and on the other side (the Zionist) standing firm are the forces of civilization and building. It is the old war of the desert against civilization ..."[18]

Thus, from its beginnings (and up to its present), the political Zionist movement had within it clear racist and colonialist currents that are central to its goal to establish an exclusively Jewish State in Palestine.

It should be noted that this racism was not just an abstract slogan of the Zionist founders. Rather, it was the very guiding principle that gave character and form to the Zionist Organization and policy in Palestine. This is clearly demonstrated by the major institutional forms assumed by the Zionist colonizers during the early part of this century. The Zionist policies toward land and labour in Palestine was established by the Jewish Agency's Jewish National Fund (JNF). These policies were blatantly exclusivist. For example, the constitution of JNF declares that:

> "Land (in Palestine) is to be acquired as Jewish property ... and title taken to the lands is to be taken in the name of the Jewish National Fund, to the end that the same shall be held as the inalienable property of the Jewish people ...
>
> "The Agency shall promote agricultural colonization based on Jewish labor, and in all works or undertakings carried out or furthered by the agency, it shall be deemed a matter of principle that Jewish labor shall be employed."[19]

In the leases given to Jews who sought to establish themselves on this JNF-acquired land, the lessee is asked to assure JNF that only Jewish labor will be employed on this land. Article 23 of the lease reads:

> "The lessee undertakes to execute all works connected with the cultivation of the holding only with Jewish labor. Failure to comply with this duty by the employment of non-Jewish labor shall render the lessee liable to the payment of a compensation of ten Palestinian pounds for each defaults."[20]

The lease further stipulates that if the lessee continues to violate the agreement and hires Arab labour after having been warned, the land may be taken back by JNF "without any compensation whatsoever".

This Zionist policy toward Arab labour was further developed along exclusivist lines by the so-called "socialist" Palestine Worker's Party (MAPAI) and the labour union it controlled, "The Hebrew Workers' Union" (the Histadrut). Both of these organizations were exclusively Jewish and both fought bitterly during the British Mandate to displace Arab workers in Palestine. David Hacoben, a leader of MAPAI, in a speech before his party in November of 1969, discussed the role played by these Zionist "socialists" during the British Mandate and noted the lengths to which he and his comrades went in their fight against the Arabs. During the course of his speech, he acknowledged that they:

> "refused Arab membership in the Histadrut; stood guard at orchards to prevent Arab workers from getting jobs there; poured kerosene on Arab produce; and even attacked Jewish women who bought goods in the Arab market."*[21]

The purpose of these efforts as well as those of JNF (noted above) was simply to break the back of the native Arab economy and to foster the development of an independent Jewish economy at the expense of that of the Palestinian Arabs.** And, of course, the ultimate goal of these efforts was nothing more than to facilitate the fulfilment of the Zionist

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* Other Zionist institutions during this period also functioned in this same way. A. S. Hoffman, a chairman of the Israel Bank Leumi referred to these Mandate period tactics in his annual report message for 1953. In it, he said,

> "In order that the Jewish farmers might be able to sell their products it was necessary to initiate a campaign of persuasion -and sometimes even use force - to make the urban population buy the dearer Jewish agricultural products. (Quoted in The Economy of Israel, Alexander Rubin, London, 1960, p. 99.)

** An example of the impact that these anti-Arab policies had can be seen in the evidence given by George Mansour, a Palestinian labour leader, to the convened Peel Commission in 1937. Describing the labour situation of the Arabs, Mansour stated that,

> "In 1935 1,000 workers in Jaffa were unemployed ... at the end of 1935 the number of unemployed in Jaffa reached 4,000, in Haifa 4,500 in Qalqilia and six neighboring villages 1,300, and in Bethlehem and Nazareth areas about 7,470 of the labor force was unemployed."

The two Zionist institutions noted above that were responsible for this work, the Histadrut and the Jewish Agency, are still today part of the backbone of the State of Israel.

"dream" of an exclusive Jewish State.*

The "vision of zionism" was to establish an exclusive Jewish State in Palestine. In this "vision" the Arab people native to Palestine were at best a nuisance. They were called "Red Indians" and were, like their namesakes, to be removed from the country of their birth and it was through the two Zionist institutional forms discussed above that this Zionist dream was to be realized.

(c) The destruction of the Palestinian revolt

The Palestinians, however, did not accept the fate of losing their homeland. Like the native American Indians they rose up, time and again, in rebellion against this Zionist scheme. During the period of the British Mandate (1919-1948) these Palestinian efforts both to terminate the Mandate and frustrate the Zionist plans for their country culminated in their tremendous revolt of 1936-1939. This revolt saw them liberate and administer almost 80 per cent of their Palestine. It was only ended in 1939 by the massive injection into the country of one-third of the British standing army, combined with the indiscriminate use of the Royal Air Force. In their effort to subdue the Arab revolt the British also organized and armed the Zionist settlers into what were called "night squads".** Over 50,000 Zionists were given military training during this period, and in the face of this overwhelming force the Palestinian revolt was before long crushed.[22] The Arab casualty toll was devastating - 19,000 dead or wounded.[23] The British used other weapons against the Palestinians during this period. They placed the entire population under a brutal Emergency Military Administration. Under this Administration the Palestinians were deprived of all of their civil rights. As a result of these measures they lost their national leadership. In 1938 alone over 5,600 Arabs were imprisoned and detained without trial, while another 200 were sent into exile (also in this year, 54 Arabs were hung). In addition, these Emergency Laws provided for collective punishment of civilians (illegal according to the Geneva Conventions on the conduct of war) and property confiscation. As a result of these provisions hundreds of Arab homes, orchards and vineyards were destroyed and the livestock of whole villages were confiscated and slaughtered.

Describing the tragedy of these events for the Palestinian people, Abu Salma, one of the most famous of the nationalist poets of this period, wrote,

> "Behold the Fatherland lies slaughtered.
> The people scattered
> The land laid waste
> Its graveyards filled with bloody memories."[24]

(d) Plan "D" and the expulsion of the Palestinians from their homeland

At the end of their great national revolt, the Palestinian people were disarmed and their ability to further resist the Zionist and British schemes checked (at least for the time being). The Zionists were, on the other hand, now a strong armed force, protected by the British and with a firm resolve to move toward a realization of their "dream". As expressed by Joseph Weitz, head of the Colonization Department of the Jewish Agency,

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* It should be emphasized here that there were some organizations of religious Zionist and anti-Zionist Jews in Palestine which repeatedly opposed the racism and exclusivist designs of their fellow colonists. One of these was IHUD (the Movement for Rapprochement between Arabs and Jews), founded by Professor Judah Magnus. IHUD counted amongst its important members Martin Buber. Though it was small in number it fought vigorously to defend Arab rights and to oppose the establishment of an exclusivist Jewish State. The Palestine Communist Party, which like IHUD had both Arab and Jewish members, was the most significant anti-Zionist organization to which Jews in Palestine belonged.

** It should be pointed out that it was not only this "force" that finally brought an end to the Palestinian revolt. Two other factors were of great importance to the British in their efforts to end this revolt. To put them quite bluntly, they were: British duplicity and the stupidity of the pro-British Arab Kings of Jordan, Iraq and Saudi Arabia.

In an effort to diffuse the Arab revolt, in 1939 the British issued a "pledge" to the Palestinians (it was called the MacDonald White Paper). In this "pledge" the British promised to support a number of the Arabs' demands, in particular, to limit Zionist immigration into Palestine, and to guarantee that it was not their intention that Palestine would ever become a Jewish State. These pledges confused and divided the Palestinian national movement. In particular, some elements of the bourgeois and traditional leadership of the Palestine population wanted to believe the British assurances and hence worked and to help end the revolt. The British client kings (who depended on British support) worked to gain support for an end to the revolt and a disarming of the fighters.

These two factors combined to help break the unified Palestinian national will to fight for their cause until victory. With the will of a section of the movement thus weakened, the ability of the superior British force was greatly enhanced. And, in the end, it was decisive.

> "It must be clear that there is no room for both peoples together in this country ... We shall not achieve our goal of being an independent people with the Arabs in this small country. The only solution is a Palestine ... without Arabs ... And there is no other way than to transfer the Arabs from here to the neighboring countries, to transfer all of them: Not one village, not one tribe should be left ... Only after this transfer will the country be able to absorb millions of our brethren. There is no other way out."[25]

This was, as we know, nothing more than a restatement of the Zionist "dream" to establish a pure Jewish State. It expresses perfectly the logic of the vision of zionism. It was the land of Palestine they wanted--not the people. Thus, as they envisioned it, for the land to become theirs, the people had to be removed. This has been seen by many leading Zionists to be a cold and simple equation.

A prominent Israeli journalist, Yeshayahu Ben-Porath, summarized this "central truth" of the history of the Zionist movement:

> "There is no Zionism, and there is no settlement, and there is no Jewish State without the evacuation of Arabs and without the expropriation and fencing of lands."[26]

The 1948 war almost brought this Zionist "dream" into reality, producing, at the same time, a nightmare for the Palestinian people. The vehicle which the Zionist forces used for the realization of their goal was called "Plan Dalet" (or "Plan D").

As the military and political situation in Palestine changed during the post Second World War years, from 1945 to 1947, the Zionist leadership changed their tactical military plans for the conquest of the land and the establishment of their Jewish State. During these three years their plans went through three phases, Plans "A" through "C".

When in October of 1947 the United Nations voted to partition Palestine into two States, one Arab and one Jewish, and when in December of 1947 Great Britain announced its intention to evacuate its forces from Palestine by 15 May 1948, the Zionists then developed their final military plan for the conquest of Palestine, Plan "D" (Dalet).[27]

The Zionists objected to the United Nations partition plan since, even though it included the absolute bulk of the Jewish inhabitants (80 per cent of them) and of Jewish-owned land in Palestine, the Jewish inhabitants were still only 45 per cent of the total population and only 9.4 per cent of the land was Jewish-owned. Arabs then were 55 per cent of the population of this proposed Jewish State and they owned 34.24 per cent of this land. This, according to the Zionists, was unsatisfactory. And, as David Ben-Gurion says in Rebirth and Destiny of Israel, they were determined to make their region "more Jewish and larger".[28]

Plan "D" was put into operation from 1 April to 15 May 1948 before the British departure from Palestine (and, it should be noted, before the entrance of any Arab army into Palestine). Specifically, it sought, by a combination of military and psychological means:

(i) To evacuate the major Arab cities and towns: Haifa, Akka, Jaffa, Lydda, thereby destroying the cultural and political centers of the Arab population;

(ii) To establish a "safe corridor" from Tel Aviv to Jerusalem;

(iii) To capture and "purify Arabs" in the Eastern and Western Galilee.[29]

The overall goal of Plan "D", as noted by Walid Khalidi in his important research study on "Plan Dalet", was "the destruction of the Palestinian Arab community and the expulsion and pauperization of the bulk of the Palestinian Arabs ... calculated to achieve a military fait accompli upon which the State of Israel was to be based",[30] or, in the words of Yigal Allon, leader of the Palmach, to "clean the area" of Arabs.[31]

"Plan Dalet" then was specifically designed to increase the size of the Jewish State while at the same time removing its Arab population. It sought to accomplish this mainly by means of terror campaigns against the Arab civilian population. One such campaign was the massacre at Deir Yassin. The horrible events that took place in this Arab town were recorded by the Red Cross Chief Delegate to Palestine, Jacques de Reynier, who reported finding 254 old men, women and children murdered, with bodies stuffed into a well in the center of town.[32] Menachem Begin, leader of the Irgun, the Zionist terrorist squad responsible for this massacre (and today leader of the "Likud", the second largest political grouping in the Israeli Knesset), described the purpose of this barbaric act. After Deir Yassin, he wrote that,

> "Arabs throughout the country, induced to believe wild tales of Irgun butchery, were seized with limitless panic and started to flee for their lives. This mass flight soon developed into a maddened

uncontrolled stampede. Of the almost 800,000 who lived in the present territory of the State of Israel, only 165,000 are still there. The political and economic significance of this development can hardly be overestimated."[33]

Yigel Allon (who is today Israel's Foreign Minister), then leader of the Zionist shock troop force, the Palmach, has similarly described the use he made of this terror tactic to evacuate the Arabs from parts of Palestine. "There were left before us," he stated, "only 5 days before the threatening date May 15."[34] That was the date of the British departure from Palestine, and therefore, the date by which the Zionists hoped to complete their Plan "D". "We saw," he continued, "a need to clean the upper Galilee and to create a territorial continuity in the entire area of the upper Galilee ... We, therefore, tried a tactic ... which worked out miraculously well. I gathered all the Jewish mukhtars, who have contact with the Arabs in different villages, and asked them to whisper in the ears of the Arabs that a great Jewish reinforcement has arrived in Galilee and that it is going to burn all the villages of the Huleh. They should suggest to these Arabs, as their friends, to escape while there is still time. And the rumor spread in all the areas of the Huleh that it is time to flee. The flight numbered myriads. The tactic reached its goal completely."

The regular Jewish army, the Haganah, also used this tactic. Bertha Vester, a Christian missionary stationed in Palestine at that time, reported hearing Haganah sound trucks driving through Arab villages warning: "Unless you leave your homes, the fate of Deir Yassin will be your fate".[35] And as they approached Jerusalem, the Haganah trucks announced in Arabic: "The road to Jericho is open! Fly from Jerusalem before you are all killed".[36]

In the Galilee, the Haganah used aircraft to drop leaflets with messages designed to frighten the Arab villagers into fleeing. Some warned of smallpox infection, others warned of massacres. An example of one of these warning leaflets read: "All people who do not want this war must leave together with their women and children in order to be safe. This is going to be a cruel war with no mercy or compassion".[37] These and other atrocities and threats of atrocities by the Zionist forces combined to produce hundreds of thousands of Arab refugees. And in the end, by means such as these, "Plan Dalet" accomplished its goal, or better, almost accomplished its goal, through what Weizman termed the "miraculous clearing of the land; the miraculous simplification of Israel's task".[38] While it was true that the hoped for "two-fold miracle" of Ben-Gurion--a State larger and more Jewish--had become a reality, it had not become a pure Jewish State. As Menachem Begin noted, 165,000 Arabs still remained. It is to their story that we shall now turn, for while these Arabs were not expelled from their homeland, they have experienced the logic of the Zionist "dream" as it has been extended to yet another ugly conclusion: systematic repression of those Arabs who remained with the land.

2. The problem of human rights under Zionist rule

(a) The Arabs in Israel: 1948-1967

Those Palestinian Arabs who remained in their homeland after 1948 were given what can, at best, be described as "third-class citizenship" in the Israeli State.* What made their lives most difficult was the harsh and arbitrary military rule to which they were subjected. This military rule was but one aspect of the repressive "Emergency Defence Laws" that were put into effect in 1949 by the new Jewish State.

These "laws", as was noted in section I above, were originally introduced into Palestine by the British in the late 1930s. When they were later used against the Zionists after the Second World War, Jewish lawyers and humanitarians in Palestine spoke out in a unified voice against them. For example, the noted lawyer, Ya'acov Shimson Shapiro, who became Attorney General, and then Minister of Justice of Israel after 1949, criticized these laws of the Mandatory Government in 1946, calling them "unparalleled in any civilized country". "There were," he said, "no such laws in Nazi Germany ... There is only one form of government which resembles the system in force here now - the case of an occupied country ... It is our duty to tell the whole world that the Defence Laws passed by the British Mandatory Government of Palestine destroy the very foundation of justice in this land ...".[39] He concluded his remarks with the judgement that "no government has the right to pass such laws".

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* The term "third-class citizenship is used to describe the situation of the Arabs in Israel so as to distinguish their plight from that of Israel's "second-class" citizens, the Oriental Jews (who are the majority Jewish group in the State). After two decades of discrimination, the Oriental Jews of Israel have developed their own powerful independent civil rights organization, the Black Panthers. The Arabs, however, are prohibited by law from forming any independent organizations to work for their rights. In the late 1950s they attempted to form such a group: al Ard ("the Land"). It, however, was soon abolished by the Israeli military administration and the courts. Activities on behalf of Arab rights are carried on today mainly by RAKAH (the "new" Communist party) and the Israeli League for Human and Civil Rights (ILHCR).

Others were equally vociferous in their condemnations of these "laws". It seems ironic, then, that immediately upon assuming State power in 1948, the Zionists would adopt these very same "laws", with little protest from these same Jewish jurists and intellectuals. This change in attitude can be explained by the fact that these "laws" were now to be applied to the Arab population of the new State.

Collectively the "Emergency Defence Laws" functioned to establish a military administration over the Arab sectors of the State, giving it the power to impose collective punishment (articles 119 and 121); institute internment without recourse to judicial process (articles 110 and 111); use forced exile without judicial recourse (articles 109 and 112); confiscate Arab lands for "security reasons" (article 125); and impose prolonged total or partial curfew over entire regions (articles 124, 126 and 132).[40]

As a result, the Arab people who remained in Israel have, since 1948, been denied most of their civil rights, including freedom of the press and the right to form any independent political party or organization; had over 6,500,000 dunams of their land (approx. 4 dunams = 1 acre), together with all of the stores, homes, orchards,* and other properties of their refugee kinfolk, confiscated by the State; and, having lost their lands and any control of their own lives, they have been reduced to a cheap pool of labour exploited by Jewish-owned industry.[41]

Since the formulation of the Jewish State, 478 Palestinian villages within its borders have been totally demolished. This was coldly acknowledged in 1969 by Moshe Dayan:

> "We came to this country which was already populated by Arabs ... Jewish villages were built in the place of Arab villages. You do not even know the names of these Arab villages, and I do not blame you, because these geography books no longer exist; not only do the books not exist, the Arab villages are not there either ... There is not one place in this country that did not have a former Arab population."[42]

In addition to the destruction of their property and loss of their lands, the Arab Palestinians who remained in Israel have, themselves, been subjected to a severe, politically repressive military occupation that has involved forced exile or the arrest and detaining of thousands of them (without being tried for or charged with any crime) and the regular use of prolonged 24-hour curfews over the entire Arab regions.** The curfew, for example, in the "Little Triangle" region (which has the second largest concentration of Arabs living in Israel) was in effect for over 14 years.

This military rule continued to be imposed over all of the Arab regions of the State for over 17 years. In 1965 politicians were able to have the Knesset (Israeli Parliament) pass a bill which formally rescinded the "Emergency Defence Laws". Most of the provisions in these laws, however, were retained in other forms. In any case, while the "laws" were formally rescinded, the military occupation and the denial of civil rights continued unabated.

While the measures of these Emergency Defence Laws have produced extraordinary hardships for the Palestinian Arabs living under Israeli occupation, the details of the oppression suffered by them goes well beyond that caused by these or any other formal acts of the Jewish State. These Palestinians have, after all, been reduced to aliens in their own homeland. They have lost hundreds of their kin and their identity as a people, and they have seen the conditions of their existence forcibly altered against their will. Most importantly, they are victims of discrimination in almost every area of human activity.

In the field of education, for example, the Palestinian Arabs in Israel have had a state-controlled system imposed upon them. Not only are the goals of this system hostile to their interests as a people, but the education that it provides is woefully insufficient. Since the creation of a Jewish State, in this area of public education as well as in the other areas of State involvement, the attention and aid given to meeting Arab needs has left much to be desired. There has been a chronic shortage of schools, books, materials (especially in the sciences) and an inadequately-trained faculty.[43]

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* These orchards, once confiscated, yielded the Jewish State tremendous revenues. Don Peretz writes in Israel and the Palestinian Arabs (Washington, Middle East Institute, 1958) that:

> "In 1951-1952 Arab (citrus) groves produced one and a quarter boxes of fruit, of which 400,000 were exported. Arab fruit sent abroad provided nearly 10 percent of the country's foreign currency earnings from exports in 1951. In 1949, the olive produce from abandoned Arab groves was Israel's third largest export, ranking after citrus and diamonds."

** One horrifying example of the effects of this policy was the (by no means isolated) "incident" at the Arab village of Kafr Qasim. In 1956 the military authorities placed the village under curfew. The curfew was imposed at midday (on the day of the Israeli invasion into the Sinai) without warning. The majority of the villagers were out of the village at work. When they returned to their homes in the afternoon, they were without warning fired upon ("like target practice") by the Israeli soldiers. In the end, 47 unarmed and unsuspecting men, women and children were massacred that day Kafr Qasim. After attempting to avoid taking action on the "incident", Israeli officials finally brought charges against all who were involved in this act of cold-blooded murder. All who were directly involved were convicted, but after appeals and pleas for leniency were heard, the longest sentence served for this crime was less than one year.

The content of this State-controlled educational system is designed to meet Jewish and not Arab needs. A number of Israeli researchers who have studied this question concluded that the materials prepared for Arab students could only serve the purpose of diminishing their pride and sense of being Arab since they presented a distorted view of Arab history and culture and presented the students with an insufficient background in Arabic language and literature.*

While the percentage of Arab students who graduate from this system is well below the percentage of Jewish graduates (the ratio is 10 to 1), even those who do finish fare poorly in this State which considers them aliens.[44] A survey done by a Zionist magazine in the mid-1960s found that of the 465 Arab secondary school graduates who had remained in the country, over 20 per cent were unemployed, while another 7 per cent were only able to find employment as labourers.[45]

As was noted above, the Arabs in Israel have for the most part lost their independent economic base (which was their ownership of the land) and have instead been largely transformed into a cheap pool of labourers for Jewish-owned industries.[46]

What agriculture remains in Arab hands is poor and is unable to compete with Jewish agriculture since it is denied the large amounts of State aid given to these Jewish enterprises.[47] The rest of the Arabs in the State have been forced (in order to economically survive) to leave their homes and villages and find work in Jewish towns. Since the provisions of the military administration do not permit the Arabs to leave their towns and live in the Jewish quarters, they must travel daily to and from work, at great hardship and personal expense.

There are other indices that can be pointed that make clear the details of discrimination against Arabs in employment. They are, for example, recipients of the lowest paid jobs in the State and are the first to be fired in times of economic decline (the Arab unemployment rate is double the Jewish rate**).[48] Finally, it should be noted that while the only trade union in the State - the Histadrut - reluctantly opened its doors to Arab workers in 1960, they still remain underorganized and underprotected. By 1976, for example, less than 60 per cent of the Arab workers of the State had been unionized.

While these forms of institutional discrimination have created severe difficulties for the Arabs living under Israeli rule, the most disturbing area is the field of social relations. Six decades of intense Zionist ideology and practice, - which is at its core anti-Arab and racist, - have left their mark on the psyche of the Jewish people of the State. A clear example of this can be found in a study of the attitudes of Israeli children done by an American psychologist, Dr. George Tamarin.[49] His study sought to investigate what the effect might be on the minds of young Jewish children who were being educated in Israeli schools where the Bible is used as a history text. His sample included 1,066 schoolchildren and solicited information from them with regard to the Book of Joshua (which is used in Israeli schools from grades 4 to 8). The children were questioned on chapter V, verses 20-21, which describes the massacre of the people of Jericho by Joshua's army. It reads: "And they utterly destroyed all that was in the city, both man and woman, young and old, and ox and sheep, and ass with the edge of the sword". The children were asked two questions: "Had Joshua acted rightly?" and "Suppose that the Israeli army conquers an Arab village ... should they do the same to the village as Joshua did to Jericho?" Differing slightly from school to school, between 66 and 95 per cent of the children interviewed agreed that Joshua had acted correctly. What was most disturbing, however, was that at least 30 per cent were in favour of the Israeli army using this as a model for dealing with the Arab villages. Clearly such an attitude in children does not come merely from their schooling but also as a reflection of attitudes derived from their entire adult world and the ideology of the State itself, the vision of zionism. That the Jews should live alone in Israel, that the Arab is "alien" and "less than human", are ideas that are transmitted in various forms on a daily basis to the Israeli public.

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* These researchers, for example, noted that while Arab students spend 256 hours a year studying the Hebrew Bible (Jewish students spend 640 hours), they are only given 30 hours of study with the Qur'an (Jewish students do not study this at all). The New Testament receives no attention in this educational system.

As Jiryis notes, "The history of the Arab people is represented as a series of revolutions, killings, feuds, plunderings and robberies ... Jewish history is, on the contrary, glorified and enriched" (The Arabs in Israel, p. 153).

An excellent study of this aspect of discrimination against Arabs in Israel can be found in "Palestine into Israel", Uri Davis (an Israeli) in Journal of Palestine Studies, vol. II, No. 1 (1973).

** An excellent example of this form of economic discrimination against Arabs occurred recently at the Dimona Fibers plant in Israel.

Due to a suspension of production of some of Dimona's lines of fabrics, the management announced that it was being forced to dismiss some 345 employees (many of whom were Jewish). The Jewish employees protested and demanded that management instead fire all its Arab employees. In the end, management yielded and all 145 Arab employees were ordered removed from the premises. This story was reported in both Ha'aretz (20 August 1974), p. 4, and The Jerusalem Post (20 August 1974, p. 10).

In an article "The Adventures of Oz Yaus, Tzuptzik and Danidin", appearing in Ha'aretz, author Tamar Meroz examines the serious problem of anti-Arab stereotypes in Israeli children's literature.[50] The single most common theme running through the books she examined is that "Arabs slaughter Jews for pleasure and the pure Jewish child then defeats the cowardly pig".

But this should not be surprising since it represents a simple reflection of the world-view of mainstream ideologists of political zionism.

The stereotypical view of Jews and Arabs presented above is not all that different from the view of, for example, Chaim Weizman, as he wrote of the "Arab problem" to Lord Balfour describing the Arab as "superficially clever and quick-witted", but at the same time "treacherous".[51]

Readers of Israel's daily press are regularly treated to such fairy tale "wicked-Arab", "heroic Jew" utterances from their leadership. For example, in a Ma'ariv interview, Aharon Davidi (retired Commanding Officer of Israel's paratroopers) expressed the following point of view about Arabs: "They have contributed nothing to the world. They have created nothing. The Arabs, as a body, are the least creative people in the world. They just sell oil ... they are strangling the world ... they are the world's biggest saboteurs ... In a war against the Arabs Israel must act as the vanguard of the enlightened world."[52]

That this "Arab" should be resident within the Jewish State is, for many, intolerable. In an article "Return to the ideology", appearing in the quarterly of the World Zionist Organization, Department of Organization and Propaganda, a famous Hebrew novelist and former Dean of Students at Hebrew University, wrote:

> "There is nothing more terrible to a Jew than to tell him that he is an integral part of the world ... the Jew demands for himself a status of more essential difference. Our being chosen and separated from the nations is a matter fixed in our proteins and our most primary genes ...
>
> "There cannot be a worse thing than the return of the Gentile into us and he is among us very deeply, woven completely in our economical infrastructure ...
>
> "There is no chance, ever for a binational state ... for the sake of the Jewish State and even more so for the sake of a Zionist Jewish State, we must return to the original Zionist concept of a state for Jews only and to free ourselves from the almost pathological need to have any mixing with the Gentiles."[53]

And in 1974, the Minister of Agriculture, A. Uzan, warned of the "Arab presence , noting that "The domination of Jewish agriculture by Arab workers is a cancer in our body".[54]

These views are frequently given added legitimacy by reference to Scripture.[55] Regular articles and commentaries appear making reference, for example, to Numbers 33:51-56:

> "When you pass over the Jordan into the land of Canaan, then you shall drive out all the inhabitants of the land from before you ... and you shall take possession of the land and settle in it ... But if you do not drive out the inhabitants of the land from before you, then those of them whom you let remain shall be as pricks in your eyes and thorns in your sides and they shall trouble you in the land where you dwell. And I will do to you as I thought to do to them."

The danger of the Arab presence is often referred to as "the demographic time bomb".[56] While this "problem" has taken on a new dimension with the occupation of the West Bank, Gaza and East Jerusalem (and will be discussed below), the fear of an increase in the Arab population in the Galilee in Israel is also frequently discussed.

Ariel Sharon, Minister of Agriculture in 1977, referred to the Arab threat of increase in the Galilee region, noting that,

> "I'm dealing with strangers, Arabs, taking over state lands ... while talking of the Judaization of the Galilee, the area has returned to be a Gentile area ... I have (therefore) begun to take drastic measures to prevent strangers from taking over national lands."[57]

And in 1979, when asked about the Arabs in the Galilee, Chief of Staff General Rafael Eytan accused them of foiling Israeli plans for Judaization. "According to my opinion," the General began, "the Arabs (in the Galilee) are today engaged in a process of conquest of the land, conquest of the work, illegal immigration and terror."[58]

The effort to "Judaize the Galilee", to which the General was referring, was the policy suggested three years earlier by the Commission for the Northern Galilee, Israel Koenig.

In 1976, Israelis were informed by the editors of *al Hamishmar* (a moderate Zionist daily newspaper of the MAPAM Party, a member of the Coalition Labor Government of Yitzak Rabin) of the existence of a "secret memorandum" on the "Arab problem", written by Israel Koenig. The "report" was Keonig's effort to deal with the Arab "threat" in the Galilee.[59]

After giving a racist description of the "Arab mind" and the danger to Israel of the growing numbers of Arabs in the Galilee, Koenig offers suggestions as to how to limit this "Arab demographic bomb". Included in his recommendations were several suggestions which have, in recent years, been implemented as government policy, including (a) increased confiscation of Arab lands in order to facilitate Judaization of the Galilee; (b) greater control over Arab education and institutions; (c) cutting links between the Galilee and the West Bank; and (d) discriminatory taxes to encourage large Jewish families, while discouraging large Arab families.

A Louis Harris poll of 1 April 1972 showed that between 60 to 85 per cent of those adult Israelis interviewed felt Arabs to be "intellectually inferior", "more inclined to irrationality", "lazier", etc. than Jews.[60] And a study done by an Israeli researcher, Yochanan Peres, found similar evidence of ingrained anti-Arab racism.[61] In response to that statement, "Arabs will not reach the level of progress of Jews", Peres found that an average of 84 per cent of those interviewed agree. A higher percentage, 87 per cent, agreed that "Arabs understand only force". Similar anti-Arab bias was noted in response to questions about "intermarriage with Arabs" (82 per cent opposed); "living next door to an Arab" (66 per cent opposed); and "there should be fewer Arabs in Israel" (92 per cent agreed).

This racism (both institutional and subjective) noted above is the logical outcome of the ideology of zionism as it has become manifest in the daily activity the State founded upon its principles.

From the very appearance of this movement in Palestine it has worked to build an exclusive Jewish State. Toward that end it has harassed and excluded, then expelled and repressed the native Arabs of that land. That the State built on this "vision" and this history would come to embody this racism was inevitable. That the people of this State would become victimized by this exclusivist ideology and would themselves become racist was, unfortunately and even tragically, also inevitable.

Such is the story of the Palestinian Arabs who have, since 1948, lived under Israeli occupation.

(b) The Israeli occupation of the West Bank and Gaza: 1967-1980

By early 1967 the number of Arabs under Zionist rule had doubled to almost 320,000. Then came the June war of that year and the Israeli occupations of the rest of historical Palestine--the West Bank of the Jordan River and the Gaza Strip. While these occupations caused over 425,000 Palestinians to flee, once again, for their lives, they also brought another 750,000 Palestinians under Zionist military rule. In this regard the 1967 occupations were significantly different and far more problematical to the Zionist movement than those of 1948: they had produced no *double miracle*. Tremendous amounts of new land were seized but far too many Arabs remained in these lands for them to be easily annexed to the Jewish State. Compounding this problem and further frustrating the Zionist desires for immediate annexation was the fact that in November of 1967, the United Nations Security Council unanimously passed resolution 242 (1967) of 22 November 1967, calling upon Israel to return all of the occupied land. In 1948 only the General Assembly had acted in an effort to put a brake on Zionist ambitions. With continued western backing, however, the Zionists were able to successfully flaunt the General Assembly resolutions on the rights of the Palestinian refugees. A unanimous Security Council resolution, however, could not be so easily ignored. Thus, while the Zionist strategy for the West Bank and Gaza displayed the same contempt for the human rights of the Arab people, because of the large numbers of Arab people involved in this occupation and the limited amount of international pressure against it, this occupation was forced to take a slightly different form.

The key elements of the occupation once again included the use of a severe, repressive military occupation; extensive land seizures by the State for the establishment of Jewish colonies; and the economic integration and exploitation of Arab land and labour for and by the Jewish State. This occupation, however, did not offer the Arabs the veneer of "citizenship rights" as did the occupation of 1949, since the State could not conceive of adding over one million Arab citizens to its numbers.

This problem has created a serious internal Israeli debate. The two major positions taken in this debate are referred to as the "territorialist" position which calls on the State to keep as much territory as possible regardless of the number of additional Arabs this would add to the State, and the "populationalist" position, which gives absolute priority to the need to maintain an overwhelming Jewish majority. This latter tendency would, therefore, be willing to give up some of the occupied lands in order to protect Israel from the danger of absorbing too many Arabs. They are ironically called "doves".

The fear of the "populationalists" was expressed by Golda Meir who was quoted in Newsweek Magazine (special issue on the twenty-fifth anniversary of Israel) saying how tired she was waking up each morning and worrying how many new Arab babies were born on the West Bank during the night (also Ha'aretz), 25 October 1972.

A similar "populationalist" concern with the high Arab birth rate was expressed by the editorialist (S. Schnitzer) in Ma'ariv on 29 October 1967. He wrote that:

> "A high birth rate is not a question of destiny, but a danger against which society must defend itself by all means ... Viewing the matter in long-range terms we must act, and appeal to the loyalty and economic interests of the Jews of Israel, and convince them that large families are essential to their survival. We must at the same time tell the Arabs that they cannot allow themselves to maintain the highest birth rate in the world in our small and poor country."

Some Israelis, however, are not at all troubled by such problems of demography (or even morality). They opt for traditional Zionist solutions. In an interview in Ma'ariv on 6 December 1974, Aharon Davidi stated a similar opinion on how to deal with the large numbers of Arabs in the occupied lands. He stated that the "problem" should be solved "in the most simple and humane fashion: by transferring all of the Palestinians from their present location to the Arab lands".

This position is not the rabbi's or Lt. Col. Davidi's alone. It is the perspective of the growing extreme right (and "religious") wing of Israeli politics, for example, it is the position of the Jewish Defense League and the terrorist Gush Emunim settlers who have, in recent months, provoked widespread violence in the occupied territories.

One last example of this position can be found in an article in Mahanaim (April 1969), the official publication of the Israeli Defence Forces (IDF). After quoting from Exodus 23 (30-31), in an effort to prove that the biblical injunction demands that "aliens" be expelled from the "Promised Land" but not exterminated, the article continues:

> "(Thus) we must carry out an orderly and humane transfer over a relatively extended period of time, rather than abruptly. It must relate to the fertility of the Israeli population and its ability to replace the evacuees, less the land become desolate ... The Arabs who inhabit this land are an essential alien element to it and to its fate and should be dealt with according to the rules which applied to the aliens of antiquity, our wars with them were inevitable ... Only those facing Jerusalem represent the true sons of the land ... the situation is clear and its outcome is clear."

Thus, those Palestinians of the areas occupied by Israel in the 1967 war were like their compatriots in the Galilee and the Triangle, viewed as "aliens" intruding on the Eretz Israel. Because of their large numbers, however, they presented a more serious problem to the Jewish State. As a result their presence had to be dealt with in a different way. The territories were not immediately annexed and the Palestinians of the occupied territories were not given the empty formal rights given to their brethren of pre-1967 occupied Palestine. Thus, when the "Emergency Defence Laws" were resurrected and rehabilitated in order to apply to the new territories, their application was, this time, to be even more harsh. The Palestinians of Gaza and the West Bank living under this military occupation have no political parties or organizations to which they can belong or in which they can participate. In fact, it is even a crime for them to have in their possession the newspaper of a Palestinian, Communist, or Arab nationalist party. They have no freedom of press, speech or assembly. In all, a broad range of human rights have been violated by the Israeli military Government. Each year since its formation, the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories has issued a report which has pointed out the severity of this repression and condemned it. In its reports the Special Committee has cited, in particular, violations involving:

> "The use of torture; collective punishment; deportation and expulsion of citizens of the occupied land, the policy of arbitrary mass arrest and detention; the destruction and demolition of villages, and the expropriation of lands by force."

The findings of the Special Committee have been corroborated by independent reports which have been issued during the past 10 years by Amnesty International, the International Committee of the Red Cross, the "Insight Team" of the Sunday Times and, in recent years, by the Annual Human Rights Report issued by the United States Department of State.

The United States Department of State report, for example, has cited such Israeli violations of Palestinian rights as:

> "Confiscation of lands for settlement building; illegal transfer of civilian populations to settle in occupied territories utilizing scarce water and land resources of the inhabitants; expulsion of civil leaders; denial of free movement; mistreatment of prisoners; collective punishment; and administrative detention."

In the past two years there has been heightened international attention focusing on those Israeli practices which violate the collective rights of the Palestinians as a people, specifically the confiscation and annexation of Palestinian lands and the establishment of large-scale Jewish settlement in the occupied territories.

A closer examination of this area of Israel's violation of Palestinian rights will shed greater light on Israeli intentions in the occupied territories.

The impact of the settlement building and land confiscations has been devastating for the Arab population in the occupied territories.

Reports by two American authorities in the occupied territories, Paul Quiring of the Mennonite Central Committee and Dr. Ann Lesch of the American Friends Service Committee, discuss in detail the impact of Israel's settlement policy on Arab agriculture and water supplies.

After presenting case studies from a number of West Bank towns affected by Israel's land confiscation and settlement building policies, Quiring concludes:

> "For farmers like these, the impact of settlement construction is very real and can easily be measured in terms of money and lost assets. Apart from the political implications of Israel's settlement policy, the settlements produced a readily visible impact on the West Bank's indigenous economy. Although the losses vary, with some perhaps even prospering in their new employment, the economic base on which the village was built has been taken out from under them. When the political or economic climate changes and it is no longer possible for the labor force to find work as laborers, they will have nothing to return to in their villages. Like thousands of others from the West Bank, they will be forced to leave their country in search of employment outside. The villagers recognize and resent this process, feeling that those who remain are becoming like museum pieces - quaint and intact, but supported by those outside and with little control over their future.[92]

And in discussing further the effects of these Israeli policies on the Arab national mood, Ann Lesch concludes,

> "The overall impact of such confiscation must not only be measured in terms of acres of land lost. For the individual and the village, the primary consequence of land seizure is despair. The West Banker, reflecting on the fate of Palestinian land inside Israel and aware that he himself has no legal right to due process, feels that he must make an impossible choice: to stay and acquiesce to increasing Israeli control or to leave the land which gives him his identity ... each new settlement represents a tangible loss for the Palestinians, encroaching on their basic human rights and denying their aspirations for the future."[93]

In a special report submitted to the Palestine Human Rights Campaign (USA), a Christian churchman working on the West Bank prepared maps in an attempt to depict the design of the Begin Government's settlement plan.[94] The churchman attempted to outline the differences between the settlement policies of the Labor Government and those of Begin's Likud. Stated simply, the Begin design, as he depict it, is an effort to carve the West Bank into governable "bantustan"-like regions surrounded by Israeli settlements and installations to facilitate their eventual annexation. According to this analyst, the strategic objective of the Begin Government's settlement programme is to "cut the West Bank into bits and pieces so that there can be no possibility of any territorial compromise over the West Bank".

Such a design for the West Bank was detailed in 1978 by the Gush Emunim, a fanatic Jewish nationalist group. In September of that year, while the Israeli Government was participating in the Camp David talks, the Gush plan was published in Yediot Aharonot.[95] In an article entitled "The Gush Emunim peace plan", the Gush called for a system of settlements and highways to cut the West Bank into manageable sections so that they could be easily controlled and annexed fully into Israel. Their plan called for adding 1 million Jews to the West Bank by the year 2000.

While the plan seemed outrageous to many in 1978, it is clear today that this is the programme envisioned by the framers of the World Zionist Organization's Master Plan (referred to often as the "Drobles Plan") and the Begin Government.[96] According to the World Zionist Organization plan (adopted October 1978 in Jerusalem) in the next five years 46 new settlements are to be built in the West Bank. They will house 27,000 families (over 130,000 people) at a cost of 54 billion Israeli pounds.

In developing the notion that the settlements should serve the purpose of controlling the Arab population and creating conditions for annexation, the World Zionist Organization plan states that,

> "The disposition of the settlements must be carried out not only around the settlements of the minorities, but also in between them, this is in accordance with the settlement policy adopted in Galilee and in other parts of the country. Therefore the proposed settlement blocs are situated as a strip surrounding the (Judea and Samaria) ridge--starting from its western slope from north to south, and along its eastern slopes from south to north; both between the minorities population and around it."

On 16 November 1979, The Jerusalem Post reported in a front page lead story that the Begin Government's Ministerial Committee on Settlements had approved a long-term settlements programme based on the World Zionist Organization plan that would build between 10,000 and 15,000 housing units per year at a total programme cost of 150 billion Israeli pounds.

Like the Gush plan described above, this Israeli Government plan includes not only an intensified building programme, but the construction of a highway system and new land acquisition extending the municipal borders of Jerusalem deep into the West Bank, thus leading Meir Merhav, economics editor of The Jerusalem Post, to say recently (31 March 1980) to Time Magazine that under the Begin Government's settlement policy, the West Bank

> "Is to be carved up by a grid of roads, settlements and strong-holds into a score of little Bantustans so that (the Palestinians) shall never coalesce into a contiguous area that can support autonomous, let alone independent, existence."

It is not only the settlement policies of the Israeli Government that are a cause of violation of Palestinian rights, the fault often lies with the settlers themselves. They are not the homeless or refugees. They are, in increasing numbers, members of groups like the Gush Emunim, a band of middle-class Israelis, for whom it has become a sacred duty to seize Arab land and rid the "Land of Israel" of its Arab inhabitants.

These settlers often behave like vigilantes. There are weekly reports of Gush-inspired violence. In Israel one frequently reads press reports of Rabbi Levinger's group in Kiryat Arba (outside of Hebron) and how, armed with clubs and guns, they walk with German shepherd patrol dogs through the streets of Hebron in a show of force. A recent example was communicated to the Palestine Human Rights Campaign (USA) on 14 March 1980 by the Mayor of Halhoul Muhammad Milham. He told the Campaign that after a similar display through Halhoul one week before, the Gush left town having smashed the windshields of 42 automobiles.

A casual reading of the Israeli press is enough to give one ample evidence of this problem (for example, The Jerusalem Post of 29 November 1979 reports "Three Shilo settlers suspected of damaging West Bank school" and The Jerusalem Post of 20 December 1979 reports "Residents of Kiryat Arba are thought to have assaulted two Arabs in a grocery store in Halhoul on Tuesday night and smashed equipment").

And, in a summary of Gush-inpired violence, Time Magazine (31 March 1980) reports,

> "In fact, settlers from Qiryat Arba regularly intimidate Arab residents of Hebron, secure in the knowledge that the Government will not crack down on them. Scarcely a week passes without some incident of vandalism or vigilantism. Grapevines of Arab villages are cut. The tires of Arab-owned vehicles are slashed and windows smashed. Gun-wielding Israelis invade the houses of Hebron residents, threatening and terrorizing them. At the Haram al-Khalil Mosque, built on the site where Abraham, Isaac and Jacob are believed to have been buried, Jews disrupt the prayers of devout Muslims.
>
> "Early this year, a Jewish seminary student was murdered in Hebron's casbah, presumably by Arab assailants. Following the murder, the Israeli army clamped a ten-day curfew on the center of Hebron. But it was a discriminatory curfew. While Arab residents were confined to their homes, Jewish settlers, armed with rifles and pistols, strolled through the streets.
>
> "In one particular ugly incident, some 20 armed men stormed the house of two stonecutters, Abdel Aziz Idris and his brother Hussein. Every window in their house, which they had built themselves, was broken. The Idris children and Abdel's pregnant wife were beaten before an Israeli army patrol arrived to rescue them. The Idrises do not know why they were targeted. "We enjoyed good neighborly relations," says Abdel Idris, "but after the murder of the Israeli youth, we were told again and again, 'If you won't leave your home, we shall beat you up.'"

As the above article notes, West Bank Arabs often complained that while the settlers are rarely punished, Arabs who respond or are a part of a conflict with settlers are often punished, even collectively. A most disturbing example of this took place on 3 May 1979 when a Gush Emunim doctor, in a provoked attack, shot and wounded a Bir Zeit University student. As the campus protested the shooting, the Israeli military entered and occupied the university, beating a number of students and faculty (including an American citizen, Dr. Wasif ABboushi, currently at the University of Cincinnati), and then ordering the university to be closed for two months.

On 14 March 1979, two unarmed demonstrating students were shot and killed by settlers in Halhoul. The response of the Military Governor was to place the entire town of 13,000 under a 23-hour-a-day curfew for 16 days.

On 8 June 1979, Gush Emunim settlers illegally established the settlement Elon Moreh on Arab-owned land outside of Nablus. The settlers have not been punished by the Mayor of Nablus and 50 municipal leaders were charged with "incitement" for conducting an "illegal" demonstration against the settlement. Although the settlement has been ruled illegal by the Israeli Supreme Court, the settlers remain in Elon Moreh to this day.

These provocative actions by a well-organized and armed fanatic settler movement (which is itself protected by the official military) when placed alongside of the policies pursued by the Government, show a complex of policies that bear a frightening resemblance to the pre-1948 situation in Palestine.

The "establishment of settlement fact", the defiance of world public opinion, the use of organized terror campaigns - all were part of the Zionist modus operandi in the post-Second-World War - pre-State of Israel period.

And in recent months there is yet new evidence which adds yet deeper detail to this frightening picture. The recent developments include:

(i) The expulsion of two leading West Bank mayors and a religious leader from Hebron, and the defiant refusal of the Israeli authorities to readmit them in the face of unanimous world-wide condemnation;

(ii) The attempted murder of three West Bank mayors and growing suspicion of official connections between the terrorist Kach and Gush Emunim vigilantes and the official Israeli army. The recent conviction of two army officers (for stealing army explosives and weapons) and the administrative internment of Meir Kahane (of Kach), on what is widely believed to be a similar charge, highlight this charge;

(iii) The plans of the Israeli Government to take over the Jerusalem Electric Co. (making nearly complete Israeli control over West Bank utilities) and the 8 July 1990 announcement by the Military Government of a takeover of higher education in the occupied territories (including the hiring and firing of faculty, admission of students and establishment of curriculum;

(iv) Increased use of long-term widespread collective punishment. During the month of May 1980, over 100,000 Palestinians from Hebron, Anabta, Daheisha, and Ayn Yafrud were placed under a near total (23 hours a day) curfew for almost two weeks. The curfews were described by Gen. Matti Peled as "systematic starvation of an entire population";

(v) The defiant new Begin policy on Jerusalem coupled with announcements of new settlements (a total of 11 in recent months) and land confiscations in the occupied territories;

(vi) The construction of a new prison center for Palestinian militants in the midst of the Negev Desert. Nafha Prison was described by one officer from the Israeli League for Human and Civil Rights (ILHCR) as "satanic and sadistic". From descriptions of inmates and their families, Nafha appears to be more of an "elimination center" than a prison;[87/]

(vii) The organized practice of terror by members of IDF during the campaigns of May 1980. This came to light as a result of the testimonies given by a number of IDF officers to MK Uri Avneri and Dr. Israel Shahak of ILHCR. The soldiers testified that they were instructed by their commanding officers and by IDF rabbis, who were brought to lecture to them, to beat and humiliate Arab residents of the territories.*[88/]

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* Excerpts from testimonies received by Uri Avneri and presented to the Knesset on 19 May 1980.

"Before leaving on the mission we received our instructions from a high-ranking officer in the Military Government, who told us:

'If you catch a small child, order his whole family out, make them stand in a row, and beat the father in front of his children. Don't treat this beating as a privilege, it's a duty! They understand no other way. There is no point in arresting those who just wander around outside. Beat them and send them home. But if someone causes trouble, throws stones or something, first break his bones and then put him on the vehicle that will take him to the military headquarters. Remember: from the minute he is on the vehicle, he is an arrested man and must not be beaten any

(viii) The suggestion by Gen. Aharon Yariv (MK) that plans exist to use the pretext of the next Middle East War (!) to expel the Arab inhabitants of the occupied territories. Speaking in a symposium at Hebrew University and quoted in Ha'aretz (23 May 1980), Gen. Yariv said,

> "There are opinions to exploit a situation of war in order to expel 700,000 or 800,000 Arabs. Such opinions are common. Persons are speaking about this and means for this have been prepared."

The Begin Government points to its offer of "autonomy" to the Palestinians as proof of its good will and respect for their rights. But the "autonomy plan" has been understood by Palestinians to mean continued occupation and eventual annexation under the fiction of "a vague 'self-rule'".

According to the plan offered by Begin, the Palestinian rights that would be secured under autonomy are primarily domestic and social. Powers and responsibilities reserved for the Israeli Government, on the other hand, include,

> "Foreign affairs and defence; internal security; Israeli inhabitants and settlements; state lands; natural resources; energy; printing of stamps and currency; radio, television and information; aerospace supervision; supervision of territorial sea; main international communication exchanges; internal telex, international mail; supervision of Israeli banking and insurance institutions in the territories, and representation of the local banking system abroad."[69]

According to Knesset member and Begin critic Uri Avneri, the "autonomy plan" offered by Begin bears a striking resemblance to the autonomy offered to the pre-State Arabs by Begin's mentor, the extremist Jabotinsky.[70] Avneri's helpful analysis of the autonomy plan is that,

> "The Arabs of Eretz-Israel will form a minority within Greater Palestine, which will be ruled by the Jews. According to the plan, the land of Israel is one inseparable unit. There is a majority and a minority. In other words: A Jewish state covering every inch of the land of Israel. The Arab population, as a minority nation, will enjoy the autonomy of a 'national minority'.
>
> "This Arab autonomy is not a Bantustan or a protectorate. It is a great deal less. Autonomy is not exercised over a terrain but over a population which is a minority in the given terrain.
>
> "The power over the terrain will be vested in a government of the majority-nation. Not only the police and the military will be in the hands of the Jewish state, but all practical administration--and in particular, the right to settle lands and to expropriate them.
>
> "The rights are given to the 'Arabs of Eretz Israel' - the Arabs who are inhabiting Israel today, i.e., the 1.1 million Arabs in the West Bank and in the Gaza Strip. The principle of autonomy grants nothing whatsoever to the 1.8 Palestinians who are outside western Palestine.
>
> "In other words: this isn't even autonomy for all the Palestinian people, but only for a section of it. The meaning of the principle of autonomy is clear - an annihilation of the Palestinian people and an eternal diaspora for half of them."

> more. To the mission!'

The point that was emphasized was not to take people aside and beat them, but to beat them in front of the others, so everyone would see and fear.

> "There were special instructions concerning roadblocks and burning tyres. We were told not to remove them ourselves, but to point our finger at the men standing most close to the roadblock and 'not to care, they are already domesticated. He will know what to do'. We were told that all we have to do is see that the inhabitants clear the road ... While fulfilling these missions we noticed an atmosphere of terror and fear among the inhabitants. We were shocked to see people who treated us as if we were masters, they humiliated themselves, begged for mercy before they were even touched."

And to Dr. Shahak, a 40-year-old reservist reported that a military rabbi addressed his group,

> "Saying that today's Arabs are the Canaanites and Amaleki'tes from the Bible and that they should be made to go away voluntarily from this country, because this country was given to us by God, under the condition that we shall live in it alone, only Jews, without 'Gentiles', whose mere existence corrupts the land and the Jews and delays salvation. Those who will refuse to leave will suffer what the 'seven peoples' suffered."

Understanding that the ultimate impact of autonomy would be to dispossess them and deny their rights, rather than to empower their nation and fulfil their rights the Palestinians have rejected the "autonomy plan". It is their rejection and active opposition to this plan that has brought about the recent intensification in the violation of their rights (especially the expulsions, control of universities, collective punishment, etc.).

Thus, after more than 80 years the vision and practice of zionism remains unchanged. The genocidal implications of zionism, as expressed so succinctly in the formula of Yeshayahu Ben-Porath, "that there is no zionism, and there is no settlement, and there is no Jewish state without evacuation of Arabs and without expropriation and fencing of lands", are disturbingly clear to the Palestinians. The violations of their basic human rights are, quite simply, a function of the political ambitions of the Zionist movement and the State it created. Palestinian resistance to zionism, and its dream of an exclusive Jewish State, therefore, continues.

Conclusion

As has been demonstrated time and again, Israeli policy is not responsive to the demands for justice for the Palestinian people that have been issued repeatedly by the great majority of the nations and peoples of the world. For as long as the Israeli Government is able to receive blank-cheque military and political support from the West, it sees no reason to alter its position. Thus, only when the international movement for the defence of Palestinian rights is joined by these powerful nations of the West will the Zionists feel pressured to end their inhumane occupation of Palestinian lands.

In addition to the aid they receive from the West, there is another reason that accounts for the Israeli sensitivity to the attitudes of the western States and their disdain for those of the rest of the world. And this is racism that lies at the heart of the Zionist ideology. This has been clearly demonstrated on a number of occasions by Zionist leaders. For example, Abba Eban, whom many feel to be one of the most eloquent spokesmen for the Israeli viewpoint, has demonstrated his attitude in his numerous attempts to slander positions taken by the United Nations on the Palestine question. After the United Nations decisions both to allow the PLO to present its case in 1974 and to characterize zionism as a form of racism in 1975, Abba Evan in The New York Times "Op. Ed." articles termed the United Nations "morally mad" and "inhuman". Their decisions, he stated, were to be ignored since they were the product of the "Afro-Asian-Arab-socialist bloc", and what, he implied, would they know of morality? Morality, respect for human decency and freedom, these virtues, according to Mr. Eban, are only to be found in the West and are therefore only appreciated by the West.

Other Zionist representatives have uttered similar condemnations of the United Nations decisions to recognize Palestinian human rights. While ignoring their own repeated use of terrorism in the history of their Zionist movement, including the recent indiscriminate bombing raids against Palestinian refugee camps as well as the fact that for more than 33 years they have denied the Palestinian people its simple right to self-determination, Zionist apologists have insisted on insulting and degrading the leader of the PLO as he appeared before the United Nations to plead (for the first time in their history) the case of his disinherited people. The Israeli United Nations Ambassador, Yoseph Tekoah, characterized the appearance of the Palestinians before the General Assembly by saying that, "Today bloodshed and bestiality have come here to collect the spoils of the United Nations surrender". What, one might ask, would be the Zionist response to a Palestinian leader characterizing an Israeli official in such language?

To the Zionist, the Arab is not a human being, has no rights, and is, therefore, due no respect. In the Zionist image of reality, the Phantom jet with its napalm and anti-personnel bombs that maim and kill from the air is clean and innocent, while the lone commando whose people are dispossessed or living under occupation, is a beast.

After the United Nations General Assembly actions of November 1975 equating zionism with racism and calling once again for an end to the occupation of Palestinian land, the Israeli Government chose to combine its verbal reply with a more traditionalist Zionist response. On 1 December, the Israeli Cabinet declared its intent to proceed with the establishment of new Zionist colonial settlements in the occupied lands. To make the point of their contempt both for Palestinian rights and life and the United Nations even more clear, on the following day, 2 December, 30 Israeli Phantom jets repeatedly bombed and rocketed not "terrorist" bases but Palestinian refugee camps. At the conclusion of this massacre, 107, mainly women and children, lay brutally murdered while another 175 were wounded (many with severe burns and lost limbs). While the United States media at first attempted to portray the massacre as a "retaliating raid" (although no one was quite sure what it was in retaliation of), the Israeli leadership in brutal honesty declared that the raids were their response to the PLO victories in the United Nations. The military spokesman for the raids stated that these attacks underlined his Government's policy that the Palestinians will be recognized and dealt with "only on the battlefield" and at the United Nations.

Thus these two actions - the terror raids and the establishment of new colonies - were the Israeli reply to the world's demand that they respect the human rights of the Palestinian people. And in this we see once again a clear example of logic of zionism: they are a civilized nation of the West. By definition, then, their actions are moral and humane. Their enemies, on the other hand, are barbarians who have no rights and understand only force.

The desire of the Zionist movement to establish an exclusive Jewish State and to keep that State open at all times to waves of Jewish immigration from abroad, has created both the problems of anti-Arab racism (institutional and subjective) and also the need for the State to continue to expand into Arab lands in order to be able to absorb more immigrants.

During the Second World War, in the midst of the horrifying massacre of 6 million Jews by the Nazi movement, the pretext under which the Zionist experiment operated changed from its original colonialist intent to a scheme to provide security for the world's Jewish people. Thus during this period, instead of combating anti-Semitism where it occurred, the Zionist leadership put forward their colonial plan in Palestine as the solution to the problem of finding security for world Jewry. And thus instead of the nations of the West, it was the Palestinian people who were made to pay the price for the horrible crimes committed against Jewish people.

In a real sense, the schemes of zionism are not only anti-Arab, they are also anti-Jewish. It is not the Palestinian who has corraled millions of Jews into a ghetto-like arsenal State where their security and well-being are constantly threatened, it is the Zionist movement which has done this. And it is not the Palestinian who has denied Jewish people the opportunity to live at peace in the Middle East.

The Palestinian desire for a truly democratic State, where all can live in peace, is the fulfilment of the universal prophetic tradition of Isaiah. In the face of this vision, zionism joins hands with European anti-Semitism and declares "that Jews and non-Jews can never live together assimilated into one human society"; "that Jews and Gentiles are essentially different"; and "that Jews are a separate race and nation, regardless of the country of their birth".

The Zionist Leo Pinsker wrote in this famous Auto-Emancipation (New York, 1944, p. 9) that the non-Jewish peoples of the world are suffering from a "psychic aberration" called "Judeophobia" which is "incurable". He states in full that,

> "Judeophobia is a variety of demonopathy with the distinction that it is not peculiar to particular races but it is common to the whole of mankind ... as a psychic aberration it is hereditary and as a disease transmitted for 2,000 years it is incurable".

Herzl himself agreed with this assessment. He thus admitted in his Diaries "the emptiness and futility of efforts to combat anti-semitism". Rather, he continues, "I (now have) a freer attitude toward anti-Semitism ... it will do the Jews no harm. I hold it to be a movement useful for the development of the Jewish character." (All quotes from the Diaries of T. Herzl (New York, 1962), pp. 6-10)

A similar antipathy towards improved Jewish-Gentile relations and support for Herzl's "utilitarian" view of anti-Semitism is found in Israel today. For example, in article No. 59 of the Basic Principles of Government approved by the Israeli Knesset in 1959, it states that it is the goal of zionism and the State of Israel, "to fight against all signs of assimilation of Jews into the countries of their origins". And from the editorial pages of the Israeli newspaper, Davar, the official organ of the ruling MAPAI, comes this plan devised by its editor:

> "I shall not be ashamed to confess that if I had the power as I have the will, I could select a score of efficient young men - intelligent, decent, devoted to our ideal and burning with desire to help redeem the Jews - and I could send them to countries where Jews are living in sinful self-satisfaction, to plague these Jews with anti-semitic slogans, such as 'bloody Jews' or 'Jews go to Palestine'.
>
> "I can vouch that the results, in terms of considerable immigration to Israel from the countries would be 10,000 times larger than the results brought by thousands of our emissaries who have been preaching for decades to deaf ears."

Thus zionism, instead of liberating Jewish people, seeks to ensnare them out of the homes of their birth and cause them to move to Israel to support its colonial ambitions in Palestine.

After 33 years, we must ask the question, "Has history shown that the establishment of the exclusivist and expansionist State of Israel has made possible real security for the Jewish people; or has it demonstrated the opposite?"

Since the Palestinian people have refused to act as pawns in this experiment and be dispossessed by this alien movement that came to take their lands and homes, it can only be concluded that the experiment of zionism has failed. It has not provided security for Jewish people; rather it has locked them into an unending cycle of violence. And its cost, in life, liberty and property, to the Palestinian people, is so great as to defy calculation. Efforts, not only to defeat the Palestinians, but to devastate them and destroy their will to resist, have all failed. They have refused to acquiesce and they continue to demand that the Israeli occupation of Palestinian lands be ended and that their rights to return to their homes and to live in peace in their homeland be recognized and implemented. Peace and security for all the peoples of the area cannot come about until these basic Palestinian human rights are recognized.

But this will not come about until those nations in the West who have for decades provided Israel with economic and diplomatic support assume what is their moral responsibility: to recognize the violations of Palestinian rights and to act decisively to end these abuses.

One year ago the Palestine Human Rights Campaign (USA) received an appeal from a women whose 14-year-old son had been imprisoned together with over 20 of his schoolmates. They were held for a prolonged period without charges. And during that time they were treated brutally and frequently humiliated by their captors. Finally they were released. But they live in fear that they may once again be arrested. She urged us to speak out, to "break down the walls of silence" that Israel has constructed around the occupied territories. In alerting the West to what had happened to her son, she said we would help to set limits on future Israeli abuses. In doing so, she concluded, we would help to create the conditions for a just peace.

There is a special challenge here to all in the West who champion civil liberties and who are molders of public opinion, a challenge to recognize the humanity of the Palestinians and to act according to the simple maxim that is the slogan of our campaign "Palestinians have human rights, too".

It is precisely the failure of the West and champions of human rights in the West to unequivocally condemn and decisively act to end Israeli abuses of Palestinian rights that has provided the Israeli regime with the breathing space (not to speak of the financial resources) to actively pursue their policies.

Today, in the face of escalating abuses of basic rights, the West deliberates. At this time, the Palestinians, especially those in the occupied territories living in the shadow of the Gush Emunim and IDF, face immediate threats to life and liberty: the prisoners in Nafha, in Ramleh, or those in the torture rooms in Moscobiyyah; the mothers of the prisoners, especially those beaten and arrested last month protesting the inhuman treatment of their sons; and the residents of Hebron and the Jalazone refugee camp living in fear of another curfew or of another night raid by the Gush Emunim. They do not need vague formulas hinting at recognition. They need to be protected and defended.

Continued silence, in the face of these crimes and overwhelming evidence as to the intensity of Israel's violations and the ultimate intent of the occupation authorities, amounts to more than acquiescence. It means complicity.

Notes

1/ Jay Gonen, A Psychohistory of Zionism (New York, Mason/Charter, 1975), p. 183.

2/ "Collection of Jabotinsky: his life and excerpts from his writings", The Shahak Papers, No. 31, p. 16.

3/ This point is well developed in "The non-colonial zionism of Mr. Abba Eban", Fayez Sayiegh, Middle East Forum, vol. 42, No. 4 (1966).

4/ Max Nordau to His People (New York, 1941), p. 73.

5/ Herzl's negotiations with the Sultan: "Turks, Arabs, and Jewish immigration into Palestine, 1882-1914", Middle East Affairs, No. 4, ed. Albert Hourani, St. Anthony's Papers (London, 1965).

6/ A copy of the letter sent by Herzl to Rhodes can be found in The Complete Diaries of Theodore Herzl, ed. Raphael Patai (New York, 1960), vol. III, pp. 1193-1194.

7/ Nahum Sokolov, History of Zionism 1600-1918 (New York, 1969), vol. 1, pp. 206-207.

8/ Herbert Sidebotham, "British interests in Palestine 1917", Haven to Conquest, Walid Khalidi, ed. (Beirut, 1971), p. 133.

9/ Nordau, op.cit., p. 57.

10/ "Memorandum by Mr. Balfour regarding Syria, Palestine, and Mesopotamia", Khalidi, op.cit., pp. 201-202.

11/ Herbert Sidebotham, British Imperial Interests in Palestine (London, 1934).

12/ Patai, op.cit., vol. I, p. 88.

13/ Ibid.

14/ Theodor Herzl, The Jewish State (New York, 1943), p. 30.

15/ Discussed in The Question of Palestine, Edward Said (New York, 1978), pp. 67-68.

16/ Shlomo Avineri, "A new look at Jabotinsky", Ha'aretz, 1 November 1980.

17/ Shahak Papers No. 31, p. 16.

18/ A section of Weizmann's speech and the Arab reaction to it are found in The Arab Woman and the Palestine Problem, M. E. Mogannam (London, 1937), p. 295.

19/ While various Zionist organizations and individuals expressed different sentiments about their attitudes toward Arab labour, this Constitution and the following agreements created the real structure of Arab-Zionist relations in Palestine. See Palestine Diary, ed. John and Hadawi (Beirut, 1970), vol. I, pp. 225-226.

20/ Ibid., pp. 224-225.

21/ See Ha'aretz, 15 November 1969.

22/ Moshe Pearlman, The Army of Israel (New York, 1950), p. 30; J. C. Hurewitz, The Struggle for Palestine (New York, 1968), p. 42.

23/ These and other statistics relating to the impact of the British-Zionist offensive that crushed the 1939 revolt can be found in Khalidi, op.cit., pp. 846ff.

24/ Translation by Dr. Emile Nakhleh.

25/ "A solution to the refugee problem: an Israeli State with a small Arab minority", Davar, 26 September 1967).

26/ Gonen, op.cit, p. 196.

27/ Plans "A" through "C" can be described as follows:

Plan "A" was operative from February 1945 until May 1947. During that time, the Zionists hoped to win the "unconditional support" of the British Government, enabling them to take control of the entire country. They, therefore, devised a plan to control the Arab population under their "minority rule".

When the British turned the Palestine question over to the United Nations, and an announcement for "partition" was imminent, the Zionists, realizing that all the Arabs were opposed to any division of Palestine, organized Plan "B", i.e. the neutralization of any Arab interference with "partition".

Plan "C", from November 1947 to April 1948, was a "holding action", designed to maintain the Zionist military initiative, until the exact United Nations and British intentions were made clear.

Plan "D", as we shall see in the text, was unique. Edward Luttwak and Dan Horowitz in The Israeli Army (New York, 1975), describe it as follows: "Plan D called for the permanent seizure of Arab villages and the expulsion of their inhabitants".

Other sources on Plan "D" include Lt. Col. Netanel Lorch, The Edge of the Sword (New York, 1961), pp. 87-89; W. Khalidi, "The Plan Dalet", Middle East Forum, November 1961, reprinted in Why Did the Palestinians Leave? (London), pp. 32-46.

28/ David Ben-Gurion, Rebirth and Destiny of Israel (New York, 1954), p. 292.

29/ Khalidi, op.cit., p. 32.

30/ Ibid., p. 32.

31/ Ibid., p. 42, see also The Decadence of Judaism in our Times, Moshe Menuhin (Beirut, 1967), p. 118.

32/ Translated from French and reprinted in Khalidi's Haven to Conquest, pp. 761-766.

33/ Menachem Begin, The Revolt (New York, 1951), p. 163.

34/ From Ha Sepher Ha Palmach (Tel Aviv, 1953), vol. II, p. 286, translated by Khalidi in "Plan Dalet".

35/ See "The Other Exodus", Erskine Childers, The Spectator, 12 May 1961.

36/ Ibid. For another example of this tactic, see Arthur Koestler, Promise and Fulfillment (New York, 1949), p. 207.

37/ Khalidi, op.cit., p. 41.

38/ James McConald, My Mission to Israel (New York, 1951), p. 176.

39/ Sabri Jiryis, The Arabs in Israel (Beirut, 1968), pp. 3-6.

40/ An outline of these laws is given in The Arabs in Israel, pp. 20-26.

41/ Henry Rosenfeld, "From peasantry to wage labor and residual peasantry: the transformation of an Arab village", Henry Rosenfeld, Peoples and Cultures of the Middle East, ed. Louise Sweet (Garden City, 1970), vol. II, p. 155 and 166-167; Leyla Qadi, The Histadrut (Beirut, 1967), p. 27.

42/ Ha'aretz, 4 April 1969.

43/ For examples of such criticism, see: Les Arabes en Israël (al-Ard, Co., Beirut; Uri Davis, "Palestine into Israel", Journal of Palestine Studies, vol. II, No. 1 (1973); Ze'en Schiff, "Arab Secondary Education in Israel", New Outlook, May, 1960; Ghassan Kanafani, The Literature of the Palestinian Resistance, 1948-1968, (Beirut, 1968).

44/ A. B. Zahlan, "Palestine's Arab population", Journal of Palestine Studies, vol. III, (1974), p. 63.

45/ Atallah Mansour, "Arab intellectuals are not integrated", New Outlook, June 1964, pp. 26-31.

46/ Rosenfeld, op.cit.; Yosef Waschitz, "Commuters and Entrepreneurs", New Outlook, October-November 1975, pp. 46-51.

47/ Essays on the Israeli Economy, ed. Yusuf Shibli (Beirut, 1969), p. 87; Waschitz, op.cit., p. 48.

48/ For example, see Edriss Khalidi, "Palestinian Arab Villages in Israel", The Arab World, May-June 1972), p. 26; M. Watad, "Combating Unemployment in an Arab Village", New Outlook, May 1967, p. 52.

49/ New Outlook, January 1966, pp. 49-58.

50/ Ha'aretz, 20 September 1974, Weekly Supplement.

51/ Said, op.cit., pp. 26-28.

52/ Dov Goldstein, "This week's interview", Ma'ariv, 12 June 1974.

53/ Betfutzot Hagola, No. 75/76 (Winter 1975).

54/ Ha'aretz, 13 December 1974.

55/ See, for example, "The Palestinians: A plague already described in the Bible", Yediot Aharonot, 20 December 1974.

56/ See, for example the exchange of articles by Amos Berr-Vered and Dov Friedlander, Ha'aretz, 1, 2 and 19 December 1977; "Sharon: can't stop expansion by Arabs", The Jerusalem Post, 8 August 1978; "Double natural growth rate for the Israeli Arab", Ha'aretz, 10 May 1978; "A sociologist from Tel Aviv", Ha'aretz, 24 May 1978.

57/ Ma'ariv, 9 September 1977.

58/ "A special interview with the Chief of Staff Gen. Rafael Eytan", Yediot Aharonot, 9 January 1979.

59/ Al Hamishmar, 7 September 1976.

60/ Time, 1 April 1972.

61/ Michael Curtis, ed., "Ethnic relations in Israel", People and Politics in the Middle East, (New Brunswick, 1971), pp. 45 ff.

62/ Palestine Human Rights Bulletin, No. 10.

63/ Ibid., No. 22.

64/ Ibid., No. 15.

65/ "The Gush Emunim peace plan", Yediot Aharonot, 8 September 1978.

66/ Palestine Human Rights Bulletin, No. 15.

67/ Palestine Human Rights Campaign, No. 28.

68/ Dr. Israel Shahak, "Report to the Israeli League for Human and Civil Rights", 20 May 1980 and "Memorandum to all members of the Knesset", MK (Member of the Knesset) Uri Avneri, 19 May 1980, Shahak Papers, No. 32.

69/ The Jerusalem Post, 20 January 1980, p. 5.

70/ "Such an autonomy", Ha-olam ha-zeh, 18 January 1978

III. THIRD UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE

(10-14 August 1981,
Colombo, Sri Lanka)

A. THE FUNDAMENTAL RIGHTS OF THE PALESTINIAN PEOPLE

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I

Few issues of our times have been subjected to so much distortion and misrepresentation as the rightful claim of the Palestinian people to its homeland. Over the years the hard facts about Palestine have been overlaid with thick layers of myths woven from fable and falsehood. The Zionist myth-making seems to have succeeded so well at least in some parts of the world as to embolden them to present their claim on Palestine as "a self-evident fact of life".

But this is not the first time the world has been confronted with "facts of life" which the processes of history, articulated by man's quest for freedom and dignity, have subsequently debunked.

Time was when myths such as the "white man's burden" and the "civilizing mission of imperialism" had been trotted out as "facts of life" only to be consigned to the dustbin of history in course of time. And what happened to Hitler's "master race" and his dream of world domination? The same inexorable processes of history are now at work in Palestine disentangling fact from fiction and salvaging reality from the myth.

Since its inception in the nineteenth century, zionism has thrived on two complementary myths: one meant for the Jew, the other for the non-Jew.

The Jews were told that they were the "chosen people" cherishing the "loftiest of the spiritual ideals"; that unlike all other peoples they alone represented a synthesis of race, religion and political community; and that God had entrusted them with a "divine mission".

Ironically, zionism borrowed these postulates from no other source than the racist philosophers of nineteenth century Europe who turned out to be the forerunners of nazism and fascism.

On the other hand, the European Gentiles, without whose active support the Zionists did not expect to fulfil their "divine mission", were told that just because the Jews were like any other people, they too should have a land of their own. They pleaded that the ideal site for this purpose was Palestine which they alleged was "a land without people".

The liberal Westerner, eager to atone for the crimes committed by his own kinsmen against the European Jews, saw in this myth a convenient escape and readily subscribed to it.

But Theodor Herzl, the self-styled prophet of zionism, knew for certain that Palestine was not a demographic vacuum. Hence the careful entry in his private diaries: "We must expropriate gently the private property on the estates assigned to us. We will try to spirit the pitiless population across the border ...".

Such was the outline of Herzl's solution for the "Arab problem" long before Hitler began to talk about "the final solution" in an equally diabolic context!

Consider also the myth of the world Jewry's special connection with, and hence, claim on Palestine. Here too the Zionists offer two sets of arguments: one meant for the consumption of the secular-minded Gentile, the other designed to stir the religious sentiment of the Jew.

The secular argument demands the resurrection of the Kingdom of Judah on the specious ground that it had existed over two thousand years ago. In plain terms, this amounts to a plea for resurrecting ancient population patterns which, if conceded, would call for a redrawing of the world's political map restoring the United Kingdom and France to the Celts, Anatolia to the Greeks and America to the Indians.

But the Zionist would promptly point out that his is a very special case backed by "divine promises" recorded in the Old Testament. And this lends an entirely new dimension to the whole myth. It implies that the Jews in the Diaspora have the right to return to Palestine at a time of their own choosing and regardless of the wishes of the then existing population of Palestine.

What is more grotesque, this line of argument attributes to God a proposition which is manifestly vile and immoral. It is, of course, quite another matter that the so-called "divine" right to return to Palestine did not prevent Theodor Herzl from persuading the Sixth Zionist Congress to accept British East Africa as a substitute for Palestine, albeit unsuccessfully.

Coming to a later period - that is after the Zionist had convinced the British Government that the Jewish "homeland" they desired to set up in Palestine would serve the British imperial interests in the neighbourhood of the Suez Canal, and the British and gratuitously conceded that demand in the Balfour Declaration of 2 November 1917 - one spots a far more fantastic myth. This was evidently necessitated by the fact that, contrary to the message conveyed by earlier myths, the Western press had begun to talk about strong Palestinian resistance to the influx of uninvited Jewish immigrants from Europe.

Zionist propaganda organs promptly came forward with a novel explanation that the Arab hostility to zionism had been artificially generated. The "ordinary Arab", it was argued, was not really interested in politics, but was being instigated by "a handful of agitators" using zionism as a diversion to secure their own feudal interests.

Here was a double-edged myth. The Zionist used it to cover up systematic expropriation of the Palestinians. He also manipulated it to pose as the "liberator" of the Arab masses from their "feudal exploiters" - an argument designed to hoodwink the liberal Westerner.

After 1948, this myth was further elaborated to explain away the woes of the dispossessed Palestinians. The latter were shown as being "caged like animals in suffering" to be used as "a deliberate political weapon" by the neighbouring Arab countries. In the course of time, so the argument ran, they would refuse to go on being "caged" and insist on their resettlement in those countries.

This last myth had the added advantage of absolving Israel of any responsibility towards the Palestinians whose hearths and homes it had usurped. But the advantage turned out to be ephemeral. Recurrent wars waged by Israel against the Arabs, together with its territorial expansion and dispossession of many more Palestinians, brutal suppression of the tiny Arab minority in Israel and the reign of terror let loose on the Palestinians in the Israeli-occupied territories have reduced the credibility of its propaganda to a near-vanishing point.

II

And thus, the truth about Palestine rises from the debris of Zionist myths and stares the world community in the face.

It is, however, necessary to add that, next to the Palestinians, the peoples of resurgent Asia were the first to perceive the ominous implications of the Zionist onslaught on Palestine under the British auspices.

It is common knowledge that for more than a century and a half before the creation of Israel, the driving force behind Britain's Middle Eastern policy was its imperial interest in India. Hence, it is hardly surprising that the Indian national movement should have played a leading role in the Asian peoples' opposition to both zionism and British policies in Palestine. India's concern for Palestine was voiced by the Indian National Congress and its most eminent mentors, Mahatma Gandhi and Jawaharlal Nehru.

Gandhi's credentials to speak on zionism and Palestine were beyond reproach. He believed in the right of every people to live in freedom. In the early phase of his political work in South Africa, he had won the friendship and cooperation of many Jews. He deeply sympathized with the sufferings and hardships of the Jews in central and Eastern Europe, and in sorrow described them as "the untouchables of Christianity".

In an article published in his own journal, Harijan, of 26 November 1938, Gandhi recorded his considered views on the Arab-Jewish question in Palestine and the persecution of Jews in Germany as follows:

> "But my sympathy (for the Jews) does not blind me to the requirements of justice. The cry for a national home for the Jews does not make much appeal to me. The sanction for it is sought in the Bible and the tenacity with which the Jews have hankered after return to Palestine. Why should they not, like other people of the Earth, make that country their home where they are born and where they earn their livelihood?
>
> "Palestine belongs to the Arabs in the same sense that England belongs to the English, or France to the French. It is wrong and inhuman to impose the Jews on the Arabs. What is going on in Palestine

today, cannot be justified by any moral code of conduct. The Mandates have no sanction but that of the last war. Surely, it would be a crime against humanity to reduce the proud Arabs so that Palestine can be restored to the Jews, partly or wholly, as their national home.

"The nobler course would be to insist on a just treatment of the Jews, wherever they are born and bred."

As the events in Palestine moved towards a tragic finale, Gandhi reiterated his views on the subject in July 1946. He said:

"In my opinion, they (the Zionists) have erred grievously in seeking to impose themselves on Palestine with the aid of America and Britain and now with the aid of naked terrorism ... One would have thought adversity would teach them lessons of peace. Why should they depend on American money or British arms for forcing themselves on an unwelcome land? Why should they resort to terrorism to make good their forcible landing in Palestine?"[1]

Jawaharlal Nehru, on his part, related the Palestine question to the wider issue of imperialism. Addressing the fiftieth session of the Indian National Congress, held in 1936, Nehru observed that "the Arab struggle against British imperialism in Palestine is as much part of the great world conflict as India's struggle for freedom".[2]

As Nehru saw it, England was pitting "Jewish religious nationalism against Arab nationalism" so as to "make it appear that her presence was necessary to act as an arbitrator and to keep the peace between the two. It was the same old game we have seen in other countries under imperialist domination, it is curious how often it is repeated".[3]

Independent India's stand on the rights of Palestinian people was rooted in the premises set forth by Gandhi, Nehru and the Indian National Congress during the freedom struggle. An elaborate exposition of the Indian viewpoint is contained in the special note submitted by the Indian representative on the United Nations Special Committee on Palestine.

The aforesaid document is of singular importance because it offers a sound analysis of the Palestine problem in the perspective of history. The Balfour Declaration, it said, had no legal validity because the British Government had no legitimate right to make it at the time when it was made. The Mandate, which incorporated the Balfour Declaration, contravened the Covenant of the League of Nations in that the Palestinians were not consulted in regard to the choice of the Mandatary. Likewise the stipulation requiring the Mandatary to ensure the well-being and development of the indigenous people of the Mandated Territory was totally disregarded.

Another grievous mistake was made when the Mandatary permitted the Jewish Agency, an extraneous body, not merely to collaborate with the administration of the country but "to run its own educational, industrial and economic system for a portion of the population" amounting to "a parallel government". This encouraged the Jewish immigrants to magnify their original demand for a "national home" into the clamour for a full-fledged Jewish State reinforced by the ceaseless terrorist activities of the Haganah, the Irgun, and Stern Gang.

The Indian note also questioned the rationale of zionism. Ancient association of a people with a land did not create political or legal rights in the present time. Nor is it reasonable to argue that profession of a faith by a person confers on him any special rights in a country.

The document concluded that the destiny of Palestine should be decided on the basis of self-determination, a principle that forms the keystone of the Charter of the United Nations.[4]

III

The crux of the Palestine problem today remains what it has always been for the past 60 years: the Palestinian people's inalienable right to self- determination. The trampling of this right by the Zionists forms a sad chapter in the history of our times - a chapter written with the blood and tears of the innocent Palestinians.

The assault on the national rights of the Palestinian Arabs was mounted by the British in the early 1920s to be continued by the Zionists since the creation of Israel in 1948.

The story of the demographic aggression of Palestine under British auspices is best told by official figures. The British carried out the first systematic census of Palestine in December 1922 which showed that its inhabitants numbered 757,182, of whom only 83,794 were Jews, the rest being Muslim and Christian Arabs.

With the opening of floodgates of Jewish immigration by the British administration, the proportion of the Jewish population in Israel steadily rose from 11 per cent in 1922 to 16 per cent in 1931, 27.7 per cent in 1936 and 31 per cent in 1947. In absolute terms, the number of Jews had increased seven-fold as against a two-fold increase in the Arab population.

Zionist immigration in Palestine was soon reflected in the pattern of land ownership. The area of Jewish-owned land increased from 594,000 dunums (1 dunum equals one quarter of an acre) in 1922 to 1.5 million dunums in 1939. Some of this additional acreage came from State-owned lands which the British "rented" to the Jewish National Fund for nominal sums under 90-year leases. The rest was bought by the Fund from absentee owners living in Syria and Lebanon under French Mandate.

On the face of it, the land thus acquired by the Zionists did not exceed 6.6 per cent of the total area of Palestine. But for a variety of reasons its real value far exceeded its size. First, this land was located in the most fertile parts of the country along the coastal and northern plains. Second, since a good part of this land was cultivable, the actual acreage under Zionist control amounted to well over 20 per cent of the total cultivable area of Palestine. Finally, the land bought by the Jewish National Fund became the exclusive property of the Zionists which could neither be resold to the Arabs nor could any Arab be employed on it.[2]

Expropriation of the Palestinians between 1922 and 1947 was followed by outright expulsion thereafter.

The first round of expulsion of Palestinians from their homeland at the hands of the Zionists was initiated well before the middle of May 1948 when establishment of Israel was formally proclaimed. The entire operation was attended by well-orchestrated Zionist propaganda to the effect that the Palestinians left their homes at the bidding of the Arab leaders and "in the hope of returning later to wreak their vengeance on the Jew".

In reality, the Zionists forced the Arabs to quit their homes by unleashing a reign of terror in several parts of Palestine. A case in point was the massacre at Deir Yassin on 9 April 1948 in which 250 old men, women and children were savagely murdered and their mutilated corpses put on public display. The horrid drama was re-enacted at several other places including Huleh, Ramleh and Lydda. As a result of these grisly proceedings, thousands of Palestinians were killed and some 800,000 were rendered homeless.

The second round of expulsion began during the June 1967 war and has ever since continued unabated. At the outset of the war, over 100,000 Palestinians were drive out of the West Bank. Senior officials of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) reported that in many cases the Israelis forced the Palestinians out by bombing the refugee camps. In several West Bank towns Israeli loudspeaker vans issued the dire warning: " We cannot tell what will happen if your remain!"[3] In all, around 400,000 Palestinians were expelled from the newly-occupied Palestine lands - some of them for the second time since 1948.

Since then, the Israeli Government has been pursuing a policy of creeping annexation in the occupied West Bank and Gaza Strip. It began with Old Jerusalem soon after the June war. And over the last 14 years, at least 133 illegal Jewish settlements have been established in the West Bank. It is to be recalled that even before the more aggressive Likud coalition had come to power in 1977, the then ruling Labour Party had earmarked 40 per cent of the occupied territory, including 90 per cent of the arable land and almost all of the water resources of the West Bank, for the proposed Jewish settlements. The Likud has implemented this plan with fanatical zeal on its own and by lending support to Gush Emunim (Faith Bloc), a military organization engaged in Jewish colonization of the West Bank.

To date, over 80 per cent of the arable land on the West Bank has already been confiscated from its Palestinian owners. And the number of Israelis already settled on the West Bank exceeds 200,000.

On top of all this, the Israeli military administration in the occupied territories has been aiding and abetting systematic pogroms against defenceless Palestinians. Its relentless campaign of expropriation, terrorization and physical liquidation of the Palestinian people is now too well known to permit complacency on the part of the outside world. Frankly speaking, the tormented land of Palestine stands littered with the Zionist versions of Belsen and Auschwitz.

IV

What, then is to be done? The Palestinians have of course chosen the only path open to them to uphold their national rights and human dignity - the path of resolute struggle. This struggle is being waged under the banner of the Palestine Liberation Organization (PLO) whose paramount purpose is to restore Palestine to the Palestinians. The PLO reversed the tide of events in Palestine when its commandos put up fierce resistance at Karameh to a regular, and numerically larger, Israeli force of 4,000, supported by tanks, paratroopers and air strikes. The battle of Karameh on 21 March 1968 was the PLO's baptism of fire and beginning of a determined struggle which it has sustained ever since.

Today, the PLO commands the allegiance and active support not only of the 2 million dispossessed Palestinians living outside Palestine but of the other million living in captivity.

Intensification of the Palestinians' struggle for their fundamental rights has been attended by a deepening of the world's consciousness about the urgency and justness of the Palestine cause. A tangible outcome of this development is the virtual ratification of Security Council resolution 242 (1967) by an overwhelming majority of the United Nations General Assembly.

It may be recalled that resolution 242 (1967) had failed to address itself to the core of Palestine, which it erroneously equated with "the refugee problem". Seven years later, the United Nations General Assembly, on its own initiative, examined the whole question afresh. On 22 November 1974, it adopted a resolution affirming the inalienable rights of the Palestinian people in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty.

In underscoring these positive developments, I do not wish to underestimate the role of negative forces. Curiously enough, a great Power, which professes its concern for human rights, has been in practice sustaining the strangulation of human rights in Palestine. I, of course, refer to the United States of America.

It is common knowledge that the United States has been subsidizing the Zionist State at the rate of $7,500 a year for each Israeli family. Israel is also the chief recipient of sophisticated United States weaponry in enormous quantities and at concessional rates.

Nor is this all. For the past eight years United States diplomacy has been working overtime to create confusion and discord in the Arab ranks. In the beginning, the exercise was conducted under the plausible cover of "step-by- step" diplomacy". This was followed by a marathon enterprise in dissimulation at Camp David. And the name of the latest game is "strategic consensus".

In conclusion, the struggle for the national rights of the Palestinian people has now entered a decisive phase. The justness of their cause is recognized by people of goodwill everywhere. Even the votaries of realpolitik admit that there can be no peace in the Middle East without a just solution of the Palestine question and that a major war in the region will be catastrophic for the whole world. Above all, the United Nations stands firmly committed to the restoration of Palestinians' rights. In other words, necessary conditions for a real breakthrough do exist. The goal can be achieved by harnessing these conditions in a meaningful and coordinated endeavour.

I fervently hope the present seminar will help to crystallize our thoughts in that direction.

Notes

1/ D. G. Tendulkar, Mahatma, Bombay, 1962, vol. 7, pp. 158-59.

2/ Jawaharlal Nehru, An Autobiography, New York, 1945, p. 417.

3/ Jawaharlal Nehru, Glimpses of World History, Bombay, 1962, p. 789.

4/ Official Records of the General Assembly, Second Session, Supplement No. 11 (A/364), vol. II, pp. 24-47.

5/ __________, Boston, 1957, pp. 330-31; and Fred J. Khouri, The Arab-Israeli Dilemma Syracuse, 1968, p. 18.

6/ The Guardian, 13 June 1967.

B. THE PALESTINIAN RIGHT TO SELF-DETERMINATION

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Various scholars have admirably set forth the legal history and the framework within which the Palestinian people's right to self-determination is to be viewed.[1] In addition, the Committee on the Exercise of the Inalienable Rights of the Palestinian People of the United Nations General Assembly has taken a leading role in encouraging research and thinking on this vital subject. The publications of the Committee reveal a high level of seriousness and compassion as well as a path-breaking attempt to end the years of silence and neglect that have surrounded the Palestinian question.[2]

Indeed, one may affirm that by now an international consensus has been achieved in the community of nations concerning some fundamental aspects of the Palestinian question. This consensus may be summed up in the following manner.

1. Recognition of the Palestinian people's right to self-determination and to return to its homes

In 1969, the United Nations General Assembly, representing all the Members of the United Nations recognized the inalienable rights of the people of Palestine. In 1970 another resolution affirmed that the Assembly "recognized that the people of Palestine are entitled to equal rights and self-determination, in accordance with the Charter of the United Nations". On 27 November 1974 the Assembly adopted resolution 3236 (XXIX) which declared that the Assembly:

> "Reaffirms the inalienable rights of the Palestinian people in Palestine, including:
>
> (a) The right to self-determination without external interference;
>
> (b) The right to national independence and sovereignty".

This resolution went on to affirm "the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return".

Other resolutions have repeatedly reaffirmed these basic principles. Furthermore, the Movement of Non-Aligned Countries, the League of Arab States, the Organization of African Unity and the European Economic Community have issued statements on various occasions confirming this consensus.

The United States Government and the State of Israel, two crucial parties to the conflict, so far refuse to accept this consensus. Yet there are indications that even in the United States, informed public opinion no longer supports Israel's contentions as blindly as it had before. Surveys of public opinion by important organizations such as Gallup, Harris and Patrick Caddell's reveal that nearly 60 per cent of those polled nationally since 1975 in fact accept the right of the Palestinians to establish their own separate and independent State and see this as a pre-condition to a settlement of the Near East conflict. The polls also reveal that even among the United States Jewish community, opinion is by far no monolithic; approximately one third of this community believes that the Palestinians are entitled to self-determination and to the creation of their own separate and independent State. There are similar indications that in Israel itself, despite the re-election of Prime Minister Begin, a trend is now emerging, represented by the Peace Movement, that is willing to accept this consensus.

II.

Another component of this consensus is the recognition that the Palestine Liberation Organization (PLO) is the sole legitimate representative of the Palestinian people. Following the recognition by the League of Arab States and by the Summit of Arab Heads of State of this established fact in October 1974, the United Nations General Assembly invited the PLO to participate in its proceedings as an observer. The PLO is now recognized by nearly all international organizations as the representative of the Palestinian people. Its representatives participate in the work of specialized United Nations agencies such as the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), and the Food and Agriculture Organization of the United Nations (FAO). PLO offices now exist in most third-world countries as well as in Socialist and European countries. An office exists in New York to work at the United Nations and an information office exists even in Washington, D.C.

Among the Palestinians themselves there is almost unanimous acceptance of the leadership of the PLO. Numerous attempts have nevertheless been made to bypass the PLO and to create an alternate leadership. These attempts, encouraged by the United States, have failed. This failure is dramatically illustrated by the repeated declarations of Palestinian mayors in the West Bank and Gaza, by opinion leaders, and even by schoolchildren that the PLO is their only legitimate representative. At a great cost to their life, the Palestinians under occupation continuously affirm and reaffirm their support of the PLO as their representative. Efforts by the various American Administrations to cast doubt on the representative nature of the PLO have equally failed. Even in the United States, there is increasing recognition within the public as well as among the media and in Congress that the PLO does in fact represent the Palestinian people, and that the Palestinians are a reality that has to be accepted.

III.

A third element of this international consensus is the recognition that no settlement can be achieved without the full participation of the Palestinian people and its representative, the PLO, in all discussions, negotiations or conferences. Furthermore, the Palestinian question is seen both at the level of political theory as well as in practice as the core problem in the Near East conflict. This is why the Camp David agreements essentially failed; they failed to deal with this central fact and pretended that the problem could be settled through regional agreements between States or through minor territorial adjustments. It has by now become a truism that no peace may be achieved in the region without an honest attempt to deal with the core problem of the Palestinian people on the basis of resolutions adopted by the General Assembly representing the will of the community of nations. As if to underscore this important fact, the recent summit of Western leaders in Ottawa was completely dominated by the conflict in the Near East and more specifically by the Palestinian question. It is rather ironic that, even with the posture of non-recognition that the various United States Administrations have maintained toward the Palestinians, the undeniable fact is that every Administration since Mr. Nixon's has been consumed by the problem and endless hours are spent on how to deal with it.

It is our contention that the implementation of this consensus is simply a matter of time. The Palestinians will achieve self-determination in their homeland. The historical process is already in motion and the moral and diplomatic balance of forces have already shifted in favour of the Palestinians. The notable successes achieved by the Palestinians on the international level, their crucial participation in mediation efforts in the region - between Iraq and the Islamic Republic of Iran for example - their success in establishing viable social, economic and cultural institutions, and above all their persistence in the face of adversity are crucial indicators that they can neither be willed away nor reduced to silence. The Powers of the region as well as the major world Powers will have to confront these facts and deal with them.

The failure of various United States Administrations to accept the international consensus has encouraged Israel to seek a military solution to the problem. The resulting savagery with which Israel has escalated its attacks against civilian populations in Beirut and in the south of Lebanon may be partly due to the fact that the moral and diplomatic balance of forces has shifted away from them in favour of the international consensus. Isolated in the international community - and increasingly dependent on its only major ally, the United States - Israel steadfastly rejects the moral and diplomatic will of the world community and continues its violations of human rights, its settlement policy and its attacks against civilians in Lebanon.

Enlightened liberal opinion in the United States is now beginning to raise some serious questions about the nature of the United States' relationship with the State of Israel. A distinction is being made between supporting Israel's right to exist and supporting its colonial practices in the West Bank and Gaza or its wanton attacks against its neighbours. Furthermore, as the State of Israel is reduced, because of its isolation, to reliance on regimes such as South Africa or political forces such as the so-called Moral Majority - in the main quite an anti-Semitic group - its support in the United States begins to narrow to discredited circles. Alex Cockburn, writing in The Village Voice on 24 June 1981 expresses this trend in the following manner:

> "If Stephen Biko's heirs erupt in the streets of Soweto again, Israeli-made Uzi submachine guns may well slaughter them. One day it is theoretically imaginable that a squadron of Mozambicuan planes ... will take off from Maputo and fly across the border to South Africa's nuclear reactor (like Israel's not open to international inspection) and possibly kill in the process Israeli scientists and technicians advising the South Africans. And if the South Africans have indeed perfected nuclear weapons, on whom do they propose to drop them? Stephen Biko would doubtless have had some ideas on the matter."

The pattern that seems by now well established links Israel with, in addition to South Africa, such regimes as that of Somoza in Nicaragua, the Shah of Iran, and other similarly discredited entities. By contrast, the Palestinians have established links with those who are struggling against oppression and exploitation. Their struggle has therefore come to symbolize, for millions of people, the revolt of the oppressed against tyranny, injustice and discrimination.

For the international consensus to become a reality, the Arab Governments must attempt to use their enormous political and economic leverage. So far, intra-Arab and intraregional problems have sidetracked efforts to lobby for forceful implementation of the resolutions of the international community. Rhetorical support of the right of the Palestinians to self-determination is no longer an adequate response to the facts established by Israel in contravention of the will of the community of nations.

If there is any well-established dictum in contemporary international affairs, it certainly must be the following: that peace based on a just settlement within the framework of United Nations resolutions is definitely in the interests of the countries of the region as well as in the interests of world peace. The Palestinians, in their homeland, restored to the community of nations, will undoubtedly contribute to the development of the region and to international efforts within the spirit of the Charter of the United Nations.

A brief look at the evolution of Palestinian identity and consciousness as well as the development of Palestinian socio-economic institutions will reveal the extent to which the Palestinian people desperately wants to assume its rightful place in the world. Rooted in the culture and history of the region, the Palestinians define themselves as Arabs who have shared with other Arabs their nationalist sentiments and their struggle for independence and unity. They participated fully in the early Arab nationalist movement and injected it with their secular vision. They fought against Ottoman domination, the British Mandate and Zionist settler colonialism. They have steadfastly rejected all efforts at the division of their country as well as efforts designed to force them to assimilate in the region. In the contemporary period (from 1917 on) the Palestinians affirmed for themselves what Erik Erikson calls a "negative identity" and what others have called a "politics of rejection". This reaction was logical in view of attempts by the British Mandate and by the Zionist movement to eliminate them from the history of the region and to reduce them to a minority in their own homeland. So the Palestinians, to a large extent, were perceived - even by themselves - as a collection of negative attributes. They have rejected and condemned the injustices committed against them, the attempts to divide their country, their forced eviction from their homes, their exile, their torture and the blanket of silence that condemned them, adding insult to injury, to non-existence.

The more recent period, following 1970 and the self-critique performed by the movement, reflects a positive assertion of the self. Again the Palestinian problem assumed centre stage in world affairs. A new generation of Palestinians, highly skilled and politically effective, assumed the leadership of their people. They were better able than previous generations to present their case to the world.

The evolution of this positive assertive self was painful indeed; but it represents a massive victory of will against seemingly insurmountable odds. The PLO created an institution which gathers all Palestinians regardless of their ideological differences in a common structure and a joint effort. The movement created representative bodies such as the Palestine National Council where all shades of opinion are reflected and freely expressed in a manner that stands in sharp contrast to the absence of such democratic institutions in the region.

Any meeting of the Palestine National Council, a broadly representative national body in the Arab world, actually debates important matters in a totally democratic way. The PLO, its Executive Committee, Mr. Yasser Arafat himself and the rest of the leadership are subjected to minute, critical scrutiny. There is no Arab country in which such things can go on.

The PLO has also created trade unions, an extensive social security apparatus which caters to the needs of the poor, the disabled, and the thousands of children of martyrs. They created schools, nurseries, clinics, hospitals, nursing schools, research centres, factories, farms, cooperatives, self-help organizations, and institutes of advanced learning. A team of educators, working through UNESCO, recently completed for the PLO a feasibility study to establish a Palestine open university. The project is so innovative and so far-reaching in its pedagogical implications that educational standards and curricula in the region will have to change in order to match it. The supreme irony is that at the time when the Israeli air force was bombing Beirut, many in the leadership were gathered to discuss, among other things, ways of establishing this Palestine open university.

The resiliency of the Palestinians and their will to survive are little short of amazing. The politics of rejection is now superseded by the politics of hope and revolutionary transformation. From refugees they have transformed themselves into the most significant political, cultural and social force in the region. As one analyst says: "No Arab community has in so short a period of time - a little less than a generation - reflected so deeply and so seriously as a community on the meaning of its history, the meaning of pluralistic society given the dismal fate of its multi-ethnic communities in the world, the meaning of national independence and self-determination against a background of exile, imperialist oppression, colonialist dispossession."[3] Palestinian identity has been indelibly linked in various ways to the Zionist movement and later to the State of Israel. But, unlike other liberation movements, the Palestinian resistance has had to contend with a unique phenomenon. The crimes committed against the Palestinians were done by the remnants of a tortured and persecuted people. The moral outcry against the holocaust in Europe overshadowed the forcible eviction of Palestinians from their homes and massacres such as Deir Yassin. The State that was confiscating their land was making room for oppressed Jews from Europe. Later, the same State that treated them as third-rate citizens was a haven of democracy and freedom for its own people.

This cycle of contradictions that enabled one persecuted group to persecute another in the shadows of morality was ultimately broken in 1967. Israel became an occupier, a colonialist Power using the same defence regulations inherited from the previous colonial Power against a recalcitrant people.

From Israel Zangwill, to the late Golda Meir, to Prime Minister Begin, Palestinians simply do not exist - meaning, of course, as a people with an identity. By contrast, the Palestinians fully recognize the reality with which they must deal. The Palestinians have offered a vision of secularism and democracy that includes the right of Jews, among others, to live in equality, peace and tranquility in the region. Furthermore, the Palestinians have carried on discussions with various segments of Israeli society that are willing to recognize their right to self-determination. But the openness of the Palestinians to dialogue is met by rigid denials of their right to determine their own destiny.

The Camp David framework illustrates this denial dramatically. Instead of asserting the right to self-determination, the Camp David framework talks about permitting the Palestinians to "participate in determining their own future". Earlier when Mr. Carter declared that the Palestinians need a "homeland" he abrogated for himself the right to cast the first ballot by announcing that such a homeland will have to be linked either to Israel or to Jordan. The failure of the Camp David framework represents the ultimate failure of attempts to establish bantustans or "reservations" for the Palestinians. Ultimately, there is simply no substitute - and this is coming - to recognizing fully and unambiguously that the right to self-determination without external interference is the key to peace in the region.

Self-determination, for the Palestinians, is no mere slogan that hides evil intent any more than a concept to be toyed with in the chanceries of the great Powers. Self-determination is not a psychological concept that is designed to heal hurt pride and to offer the mere compensation of a flag, a passport and a title. For the Palestinian people, self-determination has a particularly human and concrete dimension. So what does self-determination mean, at the level of everyday life, for the Palestinians?

Obviously, it means the end of an unacceptable *status quo*. There are now approximately 4 million Palestinians, of whom 650,000 live as third-class citizens in Israel - the first class being the Ashkenazi Jews and the second, the Sephardic Jews. One million live on the West Bank and Gaza under Israeli military rule. These people suffer on a daily basis the possibility of arbitrary arrest and detention without charge. *The London Times*, the *Washington Post* as well as Amnesty International and other international bodies maintain that torture of Palestinians is a systematic policy of the State of Israel. The State of Israel has confiscated nearly one third of the total land area. New settlements are created and approximately 20,000 settlers now live in nearly 130 illegal settlements.[4/] A Palestinian farmer wakes up one day and finds a barbed-wire fence separating his house from his land, the source of his subsistence. His land is confiscated for alleged "security reasons". He has no legal recourse and no way to object. Nearly every family has had at least one person in prison or in detention over the last 14 years of occupation. The blowing up of homes is done on a systematic basis. Economic discrimination against the West Bank and Gaza exists under a situation of nearly 170 per cent inflation and seems to be designed to encourage the exodus of Palestinians from their homes. Leaders of the community have been deported and others have been killed and/or maimed in an attempt to silence opposition. Universities at Bir Zeit, Bethlehem and Nablus are harassed and closed periodically. Teachers are restricted; the schools have to pay import duties on equipment and research materials contrary to the practice applied to Israeli universities; and the staff are constantly threatened with deportation. A recent military order No. 854 - there are obviously 853 preceding orders - makes it a crime to sing a nationalist song or to exhibit the colours of the Palestinian flag.

Another 1 million Palestinians live in Jordan. Nearly 75 per cent of them still live in refugee camps. Even though they are permitted to carry Jordanian passports they strongly identify themselves as Palestinians. Some half a million more live in Lebanon, against mostly in the camps or in shanty towns. They suffer, along with the Lebanese, the daily bombings of the Israeli air force as well as the navy and artillery. The balance are scattered in the Syrian Arab Republic, in the States adjacent to the Persian Gulf, and in North and South America.

All Palestinians share the experience of exile, uprootedness and the desire to return to their homes. Those who live in Israel or under occupation suffer from internal exile - the feeling of not belonging even in their own homes. Their literature shows a deep, almost mystical attachment to their land. As Tawfiq Zayyad, a well-known Palestinian poet and Mayor of Nazareth says:

> Here we have a past a present and a future
> Our roots are entrenched
> Deep in the earth.
> Like twenty impossibles
> We shall remain.[5/]

Whether a Palestinian is born in New York, in Beirut or in Kuwait, he will identify himself as coming from Haifa, Acre or Jerusalem. Nationalist identification is transmitted from generation to generation and sustains the Palestinian community in its perseverance. Furthermore, history seems to repeat itself with such consistency that the massacres of Tal Za'atar in 1976 become for one generation what the massacre of Deir Yassin was for an earlier one. The exodus of 1967 was a rerun of the exodus of 1948; in March 1978, following the massive Israeli invasion of the south of Lebanon, television produced a rerun of the same exodus. The notion therefore that, as the Palestinians become historically removed from their tragedy they will ultimately forget, is sheer nonsense. The idea that they might get tired and quit is another exercise in self-delusion.

Many of the Palestinians who live in the Arab world have achieved wealth and status. Yet, in their elegant flats in Beirut and elsewhere they keep jars of Palestinian soil to remind them of their roots. The problems of exile and dispersion notwithstanding, the Palestinians have achieved a highly united sense of their national self. To have galvanized their widely scattered population in a dynamic movement of national liberation is a clear indication that this people will not die and will certainly not be swept under the rug of history. For them, the right to self-determination ultimately means the right to live as decent human beings in their own homes, free from outside interference, free to choose their own leaders and free to establish their own institutions. It also means the ability to alleviate the human suffering, to eliminate the countless personal tragedies, the betrayals, the discrimination, and the prejudice that keep them hovering between their dreams and their reality.

For the region as a whole, peace begins in Palestine and war begins in Palestine. A fair and equitable settlement of this tragic problem is not only imperative, it is urgent. Any settlement must, at the very minimum, honour the international consensus representing the will of the international community. This consensus must be implemented. It is our responsibility to work, each in his own capacity, toward implementing it as soon as possible. The cause of peace and the lives of so many depend upon it.

Notes

1/ W. Thomas Mallison and Sally Mallison, An International Law Analysis of the Major United Nations Resolutions Concerning the Palestine Question (United Nations Publication, Sales No. E.79.I.19); "The national rights of the people of Palestine", Journal of Palestine Studies, vol. IX, No. 4, 1980, pp. 119-130.

2/ "The international status of the Palestinian people" (1979); "The Question of Palestine" (1979); "Israel's policy on the West Bank water resources" (1980); "The Status of Jerusalem" (1979).

3/ Edward Said, The Question of Palestine (New York, Times Books, 1979), especially chap. 3.

4/ Ann Lesch, "Israeli settlements in the occupied territories", Journal of Palestine Studies, vol. VII, No. 1, 1977, pp. 26-47.

5/ Enemy of the Sun: Poetry of the Palestinian Resistance, ed. Naseer Aruri and Edmund Ghareeb, 1970.

C. CERTAIN ASPECTS OF THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE

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It is impossible to make any sort of worthwhile analysis of the situation in the Middle East without taking into account an immutable fact: the existence of a Palestinian nation. In a world very often accustomed to seeing the situation in the region in the light and the perspective given to it by Israeli policy, the ideas behind the resistance movement must be presented as a revolutionary, independently Palestinian factor. The Palestinian question is the crux of the Middle East problem and, consequently, no stable and lasting solution can be envisaged in the region which would not take full account of the inalienable rights of the Palestinian people. The Palestinian Arabs currently possess none of the structures of a State. But a "nation on the move" can exist and can have a profound aspiration for a State of its own.

There are at least three basic factors behind the success achieved by the resistance movement.

(a) The changes within the Palestinian movement itself. Up to 1973, the priority given to the military side prevented the Fedayeen organizations from engaging in more varied forms of struggle and from taking coherent action at the political level. The lack of any sort of minimal programme prevented the resistance movement, for a long time, from gaining new allies. Once such a programme was drawn up, the Palestine Liberation Organization (PLO) was able to win over to its cause the majority of Members of the United Nations.

(b) The next factor, which allowed the resistance movement to assert itself internationally, was the failure of the efforts made by certain Arab countries to impose a solution which, to a greater or lesser degree, suited their interests.

(c) The third and last factor, which explains the ease with which the resistance movement accomplished its diplomatic breakthrough, is the situation in the Western world since the start of the energy crisis. By identifying this crisis with the Israeli-Arab conflict, Western public opinion became aware, for the first time, of the existence of the Palestinian problem and thus gave Western Governments the chance of acting more freely than before with respect to Israel by establishing with the Arab world economic relations capable of mitigating the effects of the crisis. In order for this initiative to succeed without major difficulties, European leaders absolutely need to normalize their relations with the PLO, since it is currently the only political force to be listened to by people in all the Arab countries.

Through these three factors, the recognition by the vast majority of the Palestinian reality, its national aspect and the threefold claim to self-determination, to independence and national sovereignty, and to return, was resoundingly confirmed.

In order better to understand the problem, we must go back in time. The decision of the General Assembly of 29 November 1947 on the partition of Palestine into two States - a Jewish State and an Arab State linked by an economic union - was the result of the situation which had arisen in Palestine after the Second World War (influx of Jewish settlers over the years, intensification of the clashes between them and the indigenous Arab population which went as far as open armed struggle). Jerusalem was considered as a separate entity.

Following the first Arab-Israeli war, the United Nations decisions on the partition of Palestine were not implemented. Part of the territories which were to have made up the Palestinian Arab State, as well as west Jerusalem, found themselves under Israeli control. This did not, however, mean that the United Nations decision on the partition of Palestine and on the right of Palestinian Arabs to their own State was no longer binding. Nevertheless, in the 1950s and 1960s, efforts were made in the international arena to reduce the Palestinian problem to a question of refugees. The well-known Security Council resolution 242 (1967) of 22 November 1967 also represented such an approach. After the defeat suffered in the first Israeli-Arab war, Palestinian Arabs were for a long time not in a position to fight for their own rights. At that time, they supported primarily the idea of the liberation of Palestine by the armies of the Arab countries.

In 1964, the PLO was founded. The following year, the Al-Fatah organization took up arms again. The rapid development of Palestinian military organizations goes back to the 1967 war and the military defeat suffered by the Arab countries. Palestinians were persuaded that Palestine could not be liberated by the Arab armies alone. The outcome of the national liberation struggles in the third world countries were also influential in this respect.

The following years saw the development of Palestinian national awareness. The Palestinian movement's success in opposing the Israeli attack at Al-Karameh in 1968 underlined the growing importance of the Palestinian factor in the Middle East conflict. A growing number of States considered that, if lasting peace was to be established in the Middle East, action aimed at solving the refugee problem was not enough. The adoption by the General Assembly on 10 December 1969 of resolution 2535 (XXV) confirming the inalienable rights of the Palestinian people marked a clear shift from viewing the issue as a problem of Arab refugees to viewing it as a problem of the people of Palestine.

The following year, the confirmation of the right of the Palestinians to self-determination represented a new step forward. Under the General Assembly resolution 3210 (XXIX) of 14 October 1974, the PLO was recognized as the representative of the Palestinian people and was invited to take part in the work of the twenty-ninth session on the question of Palestine. It subsequently obtained observer status at the United Nations. The establishment of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the hard work of that body made for a global approach to Palestinian national rights and their inclusion in the recommendations of the thirty-first session of the General Assembly. The opinion submitted by the Committee at the thirty-fourth session of the General Assembly that the Camp David agreements did not take account of the inalienable rights of the Palestinian people and had been negotiated without the participation of the PLO, in contravention of paragraph 4 of General Assembly resolution 33/28 of 7 December 1978, deserves attention.

The possibilities open to the Committee for achieving a just solution of the Palestinian problem are of course limited. The decisions taken on the subject in the international forum demonstrate, however, that if account is not taken of national rights, the Palestinian question cannot be settled.

It may thus be said that numerous United Nations documents adopted by a large majority of States reflect the inalienability of the rights of the Palestinian people.

In this context, the inalienable rights of the Palestinian people are as follows:

First, the right to self-determination and to the establishment of an independent and sovereign State;

Secondly, the inadmissibility of the acquisition of territory by force;

Thirdly, the right of the PLO, as the representative of the Palestinian people, to participate on an equal footing in the search for a just solution to the problem of Palestine;

Fourthly, the right of Palestinians who have been displaced and uprooted,to return to their homes.

The right to self-determination is a fundamental element of the modern international political order established by the United Nations Charter. It is one of the basic factors of understanding among peoples and nations; in other words, it determines peace. No one can claim that right for one people while denying it to another. This right should be exercised without external interference. It is linked to the right to establish one's own independent State, in Palestine, as an undisputed right equal to the right of all peoples to independence. It may be said that the right to establish an independent State is included in the concept of the right to self-determination. It is the duty and responsibility of the international community to enable the Palestinians to exercise their right to self-determination.

Any settlement must provide for the application of all the principles contained in the Security Council resolution and, in particular, resolution 242 (1967), which establishes the inadmissibility of the acquisition of territory by force and respect for the sovereignty and territorial integrity of all States in the region.

Despite the decision of the international community which reflect those resolutions and recommendations, Israel is continuing to strengthen its illegal occupation of the Arab territories and to apply measures aimed at changing the physical nature, demographic composition and institutional structure, as well as the status of the territories occupied since 1967, including the holy city of Jerusalem. Resolution 465 (1980), unanimously adopted by the Security Council on 1 March 1980, affirms that the measures adopted by Israel in the occupied territories and in the holy city of Jerusalem are considered null and void. Israel's policy of occupation will only increase Palestinian despair and lead to new acts of violence. There is no doubt that the fourth Geneva Convention of 1949 is fully applicable to the occupied territories. The settlement policy is a flagrant violation of that Convention.

There can be no successful settlement of the Palestine question without the participation of the Palestinian people - a people whose sole legitimate representative, the PLO, should participate directly on an equal footing with the other participants in any negotiation dealing with the Middle East crisis or dealing, directly or indirectly with the question of Palestine.

One positive sign is that in recent years there has been a considerable increase in the number of people who recognize this right. This can be seen from a growing international interest in the Palestinian question, greater solidarity with the Palestinian cause and a constant increase in the number of votes in favour of United Nations resolutions calling for settlement of the question.

Poland supported the 1947 General Assembly resolution on the partition of Palestine. Like many States in the world, we recognized the political realities which existed at that time in the Middle East, i.e., that there were two peoples in the territory of Palestine unable to coexist peacefully within a single State.

The partition into two States seemed to be a sound solution. In the following years, Poland did not submit the problem of establishing the Palestinian State to the United Nations, in view of the unrealistic approach to the Palestinian question on the part of the Arab countries. However, we supported all initiatives aimed at avoiding tension in the region. We actively supported the rights of the Palestinian people when, in 1969, the matter was raised again at the United Nations. We have given our support to all resolutions recognizing the rights of the Palestinians.

Poland's position with respect to the question of Palestine stresses the withdrawal of Israeli forces from all the territories occupied in 1967, the restoration of the right of the Arab people of Palestine to self-determination, including the establishment of its own independent State, and the protection of the sovereignty and security of all States in the region. The political settlement of the question also demands that no one should take measures which might make it more difficult to achieve these goals and that no State should interfere in the internal affairs of the countries or peoples of the region.

The seriousness with which Poland takes this stand and its genuine interest in seeking an overall and lasting solution to the problems of the Middle East can be seen not only in words but in deeds, through our active commitment. Suffice it to mention the honourable service of several thousand Polish soldiers in the United Nations forces in the region.

D. THE USE OF PALESTINIAN WATERS AND INTERNATIONAL LAW

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Introduction

The problems concerning the use of the Palestinian territories occupied by Israel deserve more attention than they have received in the Western media. They are linked with the dichotomy created by the claim of a people to "return" to a land, exercised at the expense of another's to live and develop in theirs. Some observers declare that the desert now "blooms", only because large tracts of once fertile Palestinian territory have turned into barren wasteland. This paper asserts that under international law the occupying Power in Palestine cannot have a free hand to effect such a change.

Expansion and dependence

The use of Palestinian waters by Israel is linked with the escalated designs of the occupying Power for complete annexation of the occupied territories and turning them into satellites of the Israeli economy in ways more than one. The Israeli policies in the West Bank and Gaza Strip are geared towards reducing these areas to the status of "colonies". When these two areas were occupied in 1967, their economies were already underdeveloped and labour force greatly undermined by continuous emigration. The economy of the occupied territories became dependent on the dominant Israeli economy, and a dependent specialization was imposed on them.1/ This specialization was based on products and labour most needed for Israel. A so-called "division of labour" similar to the one between the developed capitalist societies and the developing countries was created between Israel and the occupied territories.

With regard to agriculture, the Israeli authorities imposed various restrictions on the export of a number of products to Israel while they pressured Palestinians to grow products needed by them. In addition to this unequal transfer of value in agriculture, Palestinian labour is directly exploited inside Israel, where the number of Arab workers is rising steadily. This channelling of the Arab labour force to unskilled manual work is accompanied by discrimination in wages, health and other benefits. The rapid decrease in the number of productive workers employed in the occupied territories serves to illustrate the destructive effect of Israeli policy on the economy of the West Bank and Gaza. If there is an increase in the purchasing power of the population, this is not the result of the development of the productive forces in the occupied territories; it is on account of increased employment. But the income earned from employment in Israel is spent on purchasing Israeli goods. Most of the native people are without electricity and water.

Settlements and Palestinian bantustans

The occupation of the Palestinian territories and the transformation of their economic structure go hand in hand with colonial settlement. The Israeli authorities planned a full-scale settlement project, beginning with agricultural-military enclaves and followed by urban industrialized centres. In later stages, the Israelis concentrated on changing the demographic composition of the areas by establishing Jewish centres that insulate the Arab population of the occupied territories into small pockets surrounded by these new settlements. The Israeli authorities began a campaign of confiscating Arab land as well as cutting their water supplies. These policies, designed to alter the Arab outlook of the occupied territories, are diminutive of the character of zionism. The destruction of Arab villages, forced deportations, collective punishments, systematic undermining of native culture, denial of basic human rights and confiscation of natural resources, are all manifestations of the same character.

The Israeli Government promotes new settlements as a step toward annexation of the occupied territories. Following the first anniversary of the Camp David accords, an Israeli cabinet spokesman had announced that occupied Arab lands would be made available for purchase by Jewish settlers. The plan for the sale of such territory is a slap in the face to all international conventions regarding the conduct of an occupation force. The promotion of settlements itself constitutes a violation of article 49 (6) of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. Israel's policy seems to be designed to "create facts" to render impossible any solution other than incorporation of the West Bank and Gaza with Israel. The native Arabs, on the other hand, recognize the settlements as most threatening because, regardless of their location, size and stated purpose, they seem to be a euphemism for the theft of their land. Among others, Dr. Israel Shahak, the former Chairman of the Israeli League for Human and Civil Rights and professor at the Hebrew University at Jerusalem, exposed several times the sort of Palestinian bantustans which Israel intends to create on the occupied territories.

Palestinian waters and the West Bank

What concerns us here directly is that each new Jewish settlement has established a complete system of irrigation besides big water reservoirs in the event of shortage. The water resources of Palestine are being exploited (a) from the underground aquifer which feeds the Israeli coastal plane, and also (b) to supply the settlements which Israel has established throughout the occupied territories.

Palestine is situated between a subtropical rainy region in the north and a desert zone in the south. All major water resources are concentrated in the north, the most important being the Jordan River and its tributaries, which collect the rainfall of the Hermon basin.

The physical geography of Palestine is surprisingly complex. In the extreme north, the hills of the Lebanon range continue without break to form the uplands of Galilee. The Galilee hills fall away steeply on the east to the Jordan Valley, on the west to a narrow coastal plan and to the south at the Plain of Esdraelon. At its western end, the valley opens into the Bay of Acre, but narrows inland to open out again where it joins the Jordan Valley. The lowland area here has very fertile soil. In the north, the plateau erodes into valleys, some of which are fertile. This portion of the land centres on Nablus and Jenin. Further south, rainfall is reduced, streams are fewer and the landscape arid. Jerusalem, Bethlehem and Hebron are the main towns. In the north-east, one reaches an area of semi-desert. In the extreme south, one finds the Negev, consisting of steppe or semi-desert, bounded by the lower Jordan Valley on the east and the Sinai Desert on the west. The low coastal plain stretches from Haifa to Gaza.

Most of the water in the West Bank flows into a huge natural ground reservoir underneath the western hills. Together with supplies from the Jordan River and smaller rivulets, the area has about 850 million cubic metres of water at its disposal annually. However, about 620 million cubic metres of this amount can be used. The rainfall on the western slopes of the West Bank highlands feeds the aquifer beneath the Israeli coastal plain , from where it is pumped to the surface. Approximately 30 per cent of the total water Israelis use within the Green Line, the old pre-1967 border, originates as rainfall in the West Bank. It is asserted that Israel would face economic catastrophe if it lost its access to this rainfall. Hence, a nightmare of Israeli water planners is an independent Palestinian State on the West Bank, which uses its water potential for its own development. It has also been argued that one important reason for the Six Day War was the Israeli desire to control the water resources.

Since 1967, Israel has drilled deep wells near the border of the West Bank, tapping the underground water reservoir. An increasing amount of the West Bank reserves are thus being diverted to the territories occupied in 1948. Exploited to the maximum, any further pumping would put the water level below sea level and thus make it salty. The Palestinian peasants have to watch powerlessly as their wells and springs slowly become salty and finally dry up completely.

These resources are administered by the Israeli Water Commission, headed by the Water Commissioner, under the authority of the Minister of Agriculture. The Commission is divided into a number of departments of which Mekorot (Israeli water company) is responsible for the construction of irrigation and water supply projects and Tahal (Water planning company), for the overall planning of water development projects. Mekorot was established in 1936 by the Jewish Agency and the Histadrut. The Israeli Government currently has a one third share in the Mekorot. Tahal was established in 1952 as a company of the Israeli Government, which controls 52 per cent of the shares. Where water supplies are not channelled through either of the two, authority rests with the Water Commission's Department for Water Allocation and Certification. Since 1967, the Israeli Water Commission has directly controlled the water resources of the territories occupied at the end of the Six Day War. The pre-1967 Israeli water economy was integrated into a central national water carrier system, consisting of open canals (the Jordan and the Netupha Canals), tunnels (Menashe A and B, Shimron and Eilabun), water reservoirs (Tzalman and Eshkol) and a pipeline. This system carries water from the north to the southern areas.

Israel wants to continue this control both because of the danger to water reserves inside the Green Line and because it will be impossible to establish new settlements without such supervision. The use of water is necessarily connected with Israeli positions on aspects of so called "autonomy" in the occupied territories. After returning from the Camp David talks in 1978, Menachem Begin had appointed a committee to formulate Israeli positions in this respect. The committee received a memorandum from the Israeli Water Commission, stating that not only did a free hand in establishing new settlements in the occupied areas depend on continuing Israeli control over the water resources in any "autonomy" scheme in the West Bank, but also that Israeli water needs within the Green Line necessitated the same control. The Israeli Cabinet was likewise advised that Israeli ought to have the final say in the use of waters in any kind of arrangements.

The gravity of the situation becomes more apparent when one remembers that the Israeli water consumption increases by 15 to 20 million cubic metres annually. The difference between the supply and demand is being met through overpumping, one result of which is that the water resources of Palestine are now threatened by salinity. It is estimated that the future increase in urban population and in standards of living would necessitate the development of close to additional 400 million cubic metres of water toward 1990.

Israel's use of West Bank waters is a clear and gross violation of the Fourth Geneva Convention of 1949. On account of the calculated Israeli position, many Arab villages and towns have lost their water. For instance, the banana and citrus groves around the Palestinian village of Al-Auja[2] in the Jordan Valley have died. Al-Auja is situated near Ariha (Jericho), believed to be one of the oldest continually inhabited towns in the globe. Its inhabitants have been tapping water in the highlands and growing bananas and citrus fruits. These products provided, in the past, a decent living for farmers, most of whom are smallholders.

However, the irrigation canals are now cracked; the pipe built in 1954, to bring the water to the valley and the village, has completely dried up; the fruit trees are sunburnt, and the brown colour of even the pine trees indicates that drought is near. Even the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), which runs a camp in this locality, has to get its water by tanker everyday.

This radical change was inevitable because the Israeli occupation authorities have drilled three wells around the water source that gave life to the Jericho oasis. Alongside the canal and also beneath the ground, there are two new pipes which supply water to the Israeli settlements. These pipes are fed by two deep bore wells, with two pumping stations equipped with electric generator and diesel pumps, sucking water at about 250 cubic metres an hour. The third deep lore well was sunk behind a low hill. Consequently, the Al-Auja spring, which irrigated fruit tress to a bright green, even on the hottest days of summer, is now dry. The loss of irrigation first killed about 375 acres of bananas and some 100 acres of citrus groves. The Al-Auja farmers also used to plant three crops a year of melons and vegetables on 500 acres. But crops thrive in the new Israeli settlements of Gilgal, Naaran and Yitav, built on confiscated Arab land. The Palestinians carry water on donkeyback from the two taps which the Israeli authorities opened to provide limited quantities of water for home consumption. The inhabitants of Al-Auja appealed to the Israeli authorities to stop the pumping away of the water or permit the villagers to drill a new well. The military authorities have declined the suggestions. In the meantime, the Israeli settlements are becoming greener. Gilgal is a small kibbutz, comprising of about 80 families. But Israel has made up plans for a total of 8,000 settlers in the West Bank by 1995. This figure is still very small compared to the Palestinian population there, but the settlers control about half of the land around Ariha, and he who controls the water resources is sovereign over the West Bank.

Likewise, the villages of Bardala and Tal al-Baida[3] have also lost their water. Bardala is a small hill village, 5 miles from the Jordan River and 10 miles south of Beit Shean. Some of the inhabitants have fled, and those who have stayed depend on a well in the valley below. The well that the Israelis built in 1968 is much deeper than the Arab one and very close to it. The Arab reservoir is now dry, and the Israeli water authority suggested to the village mukhtar that Bardala be connected to the Israeli supply. As farmers, the Arabs cannot survive without adequate water. But they are reluctant to take a step that will make them wholly dependent on Israel.

The springs of a nearby village, Tal al-Baida, have been reduced to muddy ponds. Here, the village leaders have accepted connection to the Israeli system. The Israelis claim that they are helping the West Bankers by passing on their technical skills in irrigation. But this cannot compensate for the loss of water, which is their most previous resource. Prior to 1970, the central spring in the village of Tal al-Baida supplied 80 cubic metres of water per hour. By the summer of 1976, the output of the spring had declined to five cubic metres.

The same phenomenon is true with the villages of Jenin, Beit Dibs, Toubas, Salfit, Jiftlik and others. For example, on 14 August 1979, the citizens of Jenin in the West Bank asked for permission to dig wells in their area instead of depending on the well of the village in Arabeh. Their request was refused. In the village of Beit Dibs, 80 per cent of the cultivated land has become arid, while 90 per cent of its inhabitants were dependent on agriculture for their livelihood. In a press conference held on 23 January 1980, Hashem Saleh, the Mayor of Toubas, warned of the grave dangers lying in the well drilling activities of the Israeli authorities in the Toubas region.[4] He said that over 140 water projects had been drawn up while Palestinian requests for permission to sink wells were almost invariably turned down. The Mayor elaborated that the Israeli authorities had sealed off 80,000 dunums of fertile land belong to the Palestinian inhabitants of Toubas. Similarly, wells were being bored to supply a number of villages in the Salfit area, west of Nablus. In 1979, after refusing for 12 years (since 1967) permission for completion of the project, the Israelis themselves finished it; but they have pumped it to the Jewish settlement of El Kana instead.

There are instances where official refusal to permit improvement of Palestinian agricultural water supply can be explained only by the Israelis' determination to prevent the development of the native people. At Jiflik, in the Jordan Valley, the farmers are irrigating their crops by utilizing the traditional system of ditches. A United States voluntary organization provided the funds to replace the open canals with pipes in order to conserve the water lost on account of evaporation. Although this project did not involve drawing more water, the Israeli Government refused the permit.

Nor is it only the villages that are adversely affected. The town of Ramallah has lost its main source of water, the spring at Ain Samiya. The political consequences are clear: it makes it even harder than it already is to envisage a future in which Jerusalem and Ramallah will be in different countries. The West Bank municipality of Ramallah has been pressured into agreeing to take some water from the Israeli water carrier system. Many Palestinians resisted against this partial integration into the national Israeli water network since this move constituted one more step in Israeli plans to integrate the occupied areas.

Since 1967, the Israeli authorities thwarted a number of attempts by the Ramallah Water Board to create an autonomous water supply system sufficient to meet the area's needs. For instance, when Israel occupied the West Bank in 1967, the Jordanian Government was nearing completion of a project to increase the water supply to Ramallah by digging new wells 12 miles to the west at Shibteen. With occupation, the Israelis ordered the well-diggings to stop. While the area became dry and many of the farmers turned to wage labour, the Israeli settlement of Kfar Shuba, within sight of the new desert, has received permission to bore new wells for its own use.

The Gaza Strip, the Golan and Litani River

In Gaza as well, new Israeli settlements are diverting the water supplies. Israeli colonization in Gaza and the Rafah Approaches is heavy. In the former, there are five (Netzer Hazani, Kativ, Ganei Tal, Moraq and Kfar Daron) settlements, additional ones in their way of establishment. In the latter, there are 15 settlements in addition to the city of Yamit. The Gazans owe their livelihood to agriculture, with citrus production accounting for one quarter of the gross national product. But they are refused the permission to plant new citrus tress, even to replace the damaged ones. Some trees are uprooted as punishment for "offences".[3]

An important project that will affect the future of Gaza concerns the construction of a Mediterranean-Dead Sea canal. This project is defended on grounds that it is the only effective way of salvaging the Dead Sea. But it also reveals the Israeli intent to annex Gaza. Although approved by the Israeli Cabinet in August 1980, it is not a new idea, Theodor Herzl having discussed the same in his diaries. Israel, however, has renewed investigations with respect to digging such a canal (a) either along the suggestion of Yigal Allon, the former Minister of Foreign Affairs, designed to go from Haifa, through the Jezreel Valley to Beit Shean, to a point south of Lake Kinneret, (b) or to follow the northern mountain route from Palmahim to Kalia, or (c) to start in the Deir al-Balah area (the Gaza Strip) to Massada. This costly project may save the Dead Sea, but it is irrelevant to Israel's fresh water consumption problem.

Besides, since half of the Dead Sea, together with its industrial minerals, belongs to Jordan, the canal project provokes political controversy with this neighbouring country, raising legal problems as well because the massive inflow of water would change the level of the Dead Sea and require adjustments for continued Jordanian mining on the eastern shore of the sea.

Since 1967 the Golan Heights has also been subject to intensive Israeli colonization. The majority of the native Syrian population has been expelled and new Jewish settlements established. Not being abundant in local water supplies, only 20 per cent of the Golan Heights water consumption was supplied by local resources, the rest being pumped from Lake Kinneret. The southern region, suffering from acute water shortage, is heavily settled by Israelis.

In the West Bank, the Gaza Strip and the Golan Heights, the Israeli authorities are tightening control over the Palestinian use of the water. No existing well owned by the Palestinians has been allowed to increase its pumping capacity. Water metres have been placed by the Israeli authorities on existing Arab wells to keep a daily check. The control extends even to the purchase of new parts for pumps. The Israelis constantly apply an increase to the cost of water. This added financial burden comes in the context of the worsening economic situation of the Palestinians, who are hit hardest by the chronic galloping inflation. On occasions, the Israeli authorities offer money to Palestinian farmers who would agree to pull down an orange tree or his farm, under the pretext of conserving water resources.[9]

Israel is also interested in the Litani River (Lebanon), which rises in the Bekaa, flows southwards and then, at a short distance from the Israeli frontier, makes sudden bend westwards and plunges through the Lebanon mountains by a deep gorge. It is necessary to remember here that the boundaries of the projected Jewish State, defined by the Zionist Advisory Committee on Palestine on 6 November 1918, had included the Litani River in the north.[7] It is not surprising that lately Israeli air attacks and troop incursions into south Lebanon have been increasing in intensity and in regularity. The aerial bombardments are specifically aimed at civilian targets. Even as the Islamic Summit Conference was ending in Taef on 29 January 1981, Israeli planes launched one of the most concerted air attacks ever against towns and villages in south Lebanon. Israel renews attacks on the grounds that they are spontaneous responses to raids by the

Palestine Liberation Organization (PLO). But international law does not allow the Government of one State to invade another State as a reprisal for acts of resistance carried out by people whose territory had earlier been occupied by the first State.[8]

Sovereignty over natural resources

Several international instruments and decisions condemn Israel's actions in respect to the diversion of Palestinian water resources. Article 17 of the Declaration of Human Rights lays the basic principle that "no one shall be arbitrarily deprived of his property". Article 53 states that "any destruction by the occupying Power of movable or immovable property ... is prohibited".[9] Aspects of the right to property have been considered by the United Nations General Assembly and given further clarification. General Assembly resolution 1803 (XVII) on permanent sovereignty over natural resources of 14 December 1962 deals with aspects of the right to own property against the background of the right of peoples and nations to permanent sovereignty over their natural wealth and resources. General Assembly resolution 1314 (XIII) of 12 December 1958 had already established the Commission on Permanent Sovereignty over Natural Resources. This Commission was instructed to conduct a full survey of the status of permanent sovereignty over natural wealth and resources as a basic constituent of the right to self-determination. Resolution 1515 (XV) of 15 December 1960 recommended that the sovereign right of every State to dispose of its wealth and its natural resources should be respected. It was on this bases that General Assembly resolution 1803 (XVII) of 14 December 1962 declared that "the right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned" and that the violation of this right "is contrary to the spirit and principles of the Charter of the United Nations and hinders the development of international cooperation and the maintenance of peace".

The General Assembly took further decisions on the matter. On 15 December 1975, by resolution 3525 (XXX) it condemned the illegal exploitation of the natural wealth, resources and population of the occupied territories. In 1977, the Assembly considered a report by the Secretary-General on the adverse economic effects on the Arab states and peoples resulting from repeated Israeli aggression and continued occupation of their territories.[10] After taking note of the report, the General Assembly, in resolution 32/161 of 19 December 1977, emphasized the right of the Arab States and peoples whose territories are under Israeli occupation to full and effective permanent sovereignty and control over their natural and all other resources, wealth and economic activities, reaffirmed that all measures undertaken by Israel to exploit the human, natural and all other resources, wealth and economic activities in the occupied Arab territories are illegal and called upon Israel immediately to desist forthwith from all such measures. It further reaffirmed the right of the Arab States and peoples subjected to Israeli aggression and occupation to the restitution of, and full compensation for the exploitation, depletion and loss of and damage to, their natural, human, and all other resources, wealth and economic activities. The General Assembly called upon all States to support and assist the Arab States and peoples in the exercise of their above-mentioned rights ... and not to recognize or cooperate with or assist in any manner in any measures undertaken by Israel to exploit the resources of the occupied territories or to effect any changes in the demographic composition or geographic character or institutional structure of those territories.

Conclusion

Since the water shortage in Israel is increasing and Israel's settlement policy is expanding, the expropriation of Palestine water is also increasing proportionately.[11] Israel's attitude towards the future of the occupied territories and its rejection of the establishment of a Palestinian State on them can be partially attributed to the water factor on these Palestinian lands. As W. T. Mallison, Jr., in his Foreword to Henry Cattan's brilliant factual and juridical analysis[12] brings out convincingly, universal international law is a constructive alternative for Palestine.

The international community is coming to realize that the present situation in Palestine is the result of an accumulation of illegalities. The question of Palestine, since its inception, has been one of avoidance of law. This injustice must be rectified. Israel's terms, however, do not contemplate the redress of the injustice done. Moreover, the country continues to act in a way that the expulsion of the Palestinians from their own land becomes a permanent fact.

The usurpation of the water resources of the native Arab people of Palestine is a recent manifestation of the same illegitimate policies. The only way to restore right through means other than a struggle of national liberation is for the United Nations to secure the implementation of its decisions and formulas for lasting peace. As stated in a General Assembly resolution of 3 November 1950, lasting peace also depends on the observance of the resolutions of the United Nations organs. About 200 such resolutions have been adopted with respect to Palestine. The ones quoted in this paper pertain to sovereignty over resources and the rights of the indigenous peoples to their own natural wealth. Actual United Nations intervention is necessary to put these resolutions into effect. There can be no peace and no justice in

Palestine without the legitimate coercion of this international body. The problem of the diversion of the water resources is part of the greater problem of Palestine. Such coercion is politically necessary, and it also an international obligation.

Notes

1/ Jamil Hilal, "The Palestinians of the West Bank and Gaza Strip: Social and economic conditions under Israeli occupation", Beirut, 1976.

2/ A leading Norwegian daily, Dagbladet, published in its 6 June 1980 issue a detailed account on the way the Israeli occupation authorities have been strangulating Al-Auja. "The desert is blossoming; the fields are drying up", Palestine, vol. VI, No. 14 (Beirut, 1-15 August 1980), pp. 18-20.

3/ "The politics of water on the West Bank", Journal of Palestine Studies, vol. VII, No. 4 (Beirut, Summer 1978), pp. 175-177.

4/ Palestine, vol. VI, No. 1 (Beirut, January 1980), p. 94.

5/ For instance, Israeli forces uprooted on 26 January 1981 orange trees in a grove owned by Gaza municipal council member Dr. Akram Matar. They pretended that a bomb was hurled from the groves, situated on the Gaza-Khan Yonunes Road, on an Israeli car.

6/ Palestine, vol. VI, No. 1 (Beirut, January 1980), p. 94.

7/ H. P. Frischwasser-Raaman, The Frontiers of a Nation (London, Batchworth, 1955), p. 101.

8/ Faris Glubb, "International Law and South Lebanon", Palestine, vol. IV, No. 9 (Beirut, 31 May 1978), pp. 8-10.

9/ On the flagrant Israeli contraventions of several international instruments on human rights: Ghazi Khurshid, Human Rights in the Occupied Territories: 1971 (Beirut, Palestine Research Centre, 1973), passim.

10/ A/32/204.

11/ 1980 study by the Committee on the Exercise of the Inalienable Rights of the Palestinian People, "Israel's policy on the West Bank water resources, p. 15.

12/ Henry Cattan, Palestine and International Law (London, Longman, 1973).

E. THE NATIONAL IDENTITY AND THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE

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The Palestine question and the exercise of the legitimate national rights of the Arab people of Palestine, who have been uprooted from its homeland and deprived of its national rights, following a joint conspiracy of imperialists, colonialists and Zionists, is still a key issue for the settlement of the situation in the Middle East. It may be said without exaggeration that the grave and disturbing situation which persists in the Middle East itself results from the fact that the legitimate rights of the Arabs of Palestine have been flouted by the Zionists, with the full approval and support of imperialist circles.

The Palestinian problem concerns not only the refugees but the interests and the fate of a whole people, the only people deprived of its legitimate rights in the Middle East, who cannot yet realize its right to self-determination and to the creation of its own State structures in accordance with the norms and principles of international law.

Everyone knows that the Palestinian people, who possess a history that is thousands of years old, are forced to live through a tragedy, one that has already lasted for a third of a century. This tragedy stems from the fact that the Zionist entity robbed the Palestinians of their ancestral lands in 1947-1949 and, particularly after its 1967 aggression, drove them from their homes and deprived them of their homeland; it has transformed a whole nation, proud of its history, into a mass of refugees and subjected it to occupation.

It would be hard to find such an example of brutality and inhuman and illegal treatment inflicted on a whole nation. Nothing and no one could justify the mass murder of this nation. Depriving other nations and other peoples of their native lands and their homes in order to acquire "living space" for its own nation constitutes one of the fundamental characteristics of Fascist ideology, policy and practice. Such are the ideology, policy and practice of zionism: to find "living space" to the detriment of other peoples.

The Palestinian question is as old as the United Nations itself. The United Nations has been studying it ever since its establishment, just as the League of Nations had done before it.

An in-depth examination of the question of Palestine since the First World War, and particularly since 1947, shows us that the essence of the Palestinian question lies in the fate of a people and its own homeland - a people who, like all the peoples of the world, have rights which are clearly laid down by the Charter of the United Nations, by various international conventions, declarations, communiqués and commitments and by the relevant resolutions and documents of the United Nations. These rights are the fundamental rights which cannot be alienated and which cannot be ceded to another or usurped.

Taking these considerations into account, I would like to deal here with two points: the national identity of the Palestinian people and the inalienable rights of the Palestinian people to self-determination, national sovereignty and independence.

I. The national identity of the Palestinian people

The Palestinians actually constituted the people of Palestine well before the twentieth century.

Over a long period, the preponderant population of Palestine had remained Palestinian Arab. That was why, at the beginning of the twentieth century, the population of Palestine still included a vast Arab and mainly Moslem majority. According to the estimate made on the eve of the First World War of the Palestinian population as a whole, there were less than 10 per cent Jews there, 10 per cent Christians and 80 per cent Moslems, with their own language and culture, which was dominant in Palestine.

At the time when the Ottoman Empire was in decline, the Arab subjects of that empire, who wished their independence, had received from the British Government assurances guaranteeing their accession to independence after the end of the war, within the limits proposed by the Sherif of Mecca. During the First World War, the policy of Great Britain in the Middle East consisted of making contradictory promises to the Arabs and to the Zionists. Sir Henry McMahon promised Emir Hussein the establishment of a great Arab political community over the whole of the Near East; and to the Zionist Movement the creation of a Jewish national home on the land of Palestine.

The reasons for the promises made to the Arabs was to have the operations of the British Army in Egypt supported by a general revolt of the Arabs against the Ottoman Empire. In return, the British would grant them independence throughout the territory liberated from the Ottoman yoke.

In spite of these promises, the Entente Powers proceeded, amid the greatest secrecy to carve up the Middle East. Thus, on 16 May 1916, according to the Sykes-Picot agreement, France and Great Britain divided up the Middle East. After the defeat of the Allies' expeditionary corps in the Dardanelles and the British offensive in Mesopotamia, the London Government accorded considerable importance to Arab cooperation. On 14 July 1916, McMahon, in his message to Sherif Hussein, affirmed that the independence of the Arab countries was definitively recognized by His Majesty's Government. Following that message, Sherif Hussein undertook to participate on the British side in the war against the Turks, in order to liberate the Arab territories from foreign domination. After that commitment, a series of statements from the Franco-English Government reaffirmed that the Arab countries would be liberated after the war. On 27 May 1917, General Allenby, Commander-in-Chief of the British Armed Forces in the East, proclaimed that all the inhabitants of Palestine must celebrate that day with joy because they would henceforth be independent and free to choose the Government of their choice. However, Sherif Hussein, having found the text of the Sykes-Picot secret treaty, was surprised and transmitted it to the British Government with a request for explanation. The British Government reassured Sherif Hussein by confirming its earlier promises regarding the liberation of the Arab peoples. On 30 October 1918, with the defeat of Turkey, the Ottoman Empire ceased to exist. The British and French Governments, in a joint declaration, once more assured the Arab peoples concerning their independence.

The Zionist movement, in turn, in the same way as the Arabs, received promises from Great Britain. This movement, which was in search of a territory in which to establish the Zionist State, benefited greatly from the support of Great Britain.

The first Zionist Congress, held at Basle on 27 August 1897 under the presidency of Theodor Herzl, declared that "the objective of zionism is the establishment of a national home for Jews in Palestine, secured by public law". On 3 September 1897, Herzl declared, with regard to the Basle Congress: "If I had to sum up the Basle Congress in one word, which I shall be careful not to do publicly, I would say: at Basle I founded the Jewish State".

Herzl was aware that the Jewish people could not settle in Palestine unless they found a great Power which would take them under its protection. This protection was provided by Great Britain following the discovery, by the head of the Zionist movement, Chaim Weizmann, of a formula for the synthetic manufacture of acetone to be used for the production of explosives. Weizmann, as a reward, asked Lloyd George to create a Jewish national home in Palestine. That request was accepted by the British Government. Balfour, the Secretary of State for Foreign Affairs, addressed a letter to Lord Lionel Rothschild, informing him that His Majesty's Government viewed with favour the establishment of a "Jewish national home" in Palestine and that he would make every effort to facilitate the achievement of that objective. Thus the British Government, by a statement known as the Balfour Declaration, on 2 November 1917, entered into commitments towards the Zionists by giving the Zionist organization assurances with regard to the establishment of a "Jewish national home" in Palestine, without taking account of the wishes and interests of the Palestinian people. For their part, France, Italy and the United States fully approved this Declaration. The motives behind the Declaration and the reasons for the approval of the three Powers did not lie in the fact of the establishment of a Jewish national home but in the wish to safeguard their interests in the Middle East.

It should be noted that the Balfour Declaration mentions the establishment of a Jewish national home and not of a Jewish State. However, that in no way reduces Great Britain's responsibility for the establishment of the Zionist State because it knew as early as 1897 that the Zionist Movement wanted to establish a State in Palestine and not a Jewish national home. In that connection, Herzl, at the Sixth Zionist Congress at Basle in August 1903, declared:

> "Our ultimate objective is the establishment of a Jewish State in Palestine endowed with all the attributes of sovereignty. But it would be inappropriate to proclaim it now. It is better to present the matter in the most modest light, referring to the establishment of a Jewish national home, if only in order not to alienate useful sympathies and obtain from one of the great Powers the protection that is essential for the achievement of our objectives."

The Arab people of Palestine, aware of the danger of the establishment of a Jewish national home on its land, categorically disapproved of the British initiative.

On 7 March 1920, the Syrian General Congress, condemning the transformation of Palestine into a Jewish national home, demanded from the Allies the full and inalienable independence of Syria within its natural frontiers, including Palestine, on the basis of civic representation.

In spite of this protest, on 26 April 1920, the Allied Powers met at San Remo and approved the Balfour Declaration, deciding to entrust the Mandate for Palestine to Great Britain. The choice of Great Britain as the Mandatory Power constitutes a violation of the Mandate System, inasmuch as it was laid down, in the case of a class A Mandate, that the wishes of these communities, already highly evolved, should be taken into consideration in the choice of a Mandatory Power. On 24 July 1922, the League of Nations entrusted the Mandate for Palestine to Great Britain, without any consultation of the Palestinian population. Furthermore, the Arab countries did not belong to the League of Nations at that time and were thus not in a position to give their views on the matter.

As for the Mandate itself, its illegality is on two levels:

1. The illegality of the Balfour Declaration lies in the fact that Great Britain had, at that time, no sovereignty, no title of ownership, and no right on the basis of which it could offer Palestine to the Zionist Movement without consultation of its population. Hence, it may be said that this Declaration is a violation of the right of the Palestinian people to self-determination.

2. The illegality of the Mandate for Palestine lies in the fact that Article 22 of the Covenant of the League of Nations states that the Mandatory Power has an obligation to maintain these territories in their original integrity and hence to respect the full rights of their population. The League of Nations, by including the Balfour Declaration in the Mandate for Palestine, violated Article 22 of the Covenant to which it owed its existence. Moreover, the Mandate for Palestine was class A, i.e., the Mandatory Power was to recognize its provisional independence and provide within a very short time for its full independence. Furthermore, according to Article 29 of the Covenant of the League of Nations and the Mandate itself, the exercise of sovereignty by the Palestinian people was suspended only temporarily. Upon the expiry of the Mandate, that sovereignty should have reverted in its original integrity to its legitimate holder: the Palestinian people. That was not the case. On the contrary, with the waves of Jewish immigration facilitated by Great Britain and the expulsion of the Arab population by force and terror, the Zionists took possession of Palestine in order to found there, not a Jewish national home in accordance with the Balfour Declaration, but a Zionist State. In order to establish a Jewish State in Palestine, the Jewish Agency entered into contract with Truman, who promised the Zionists to use his influence to persuade Great Britain to return its Mandate to the United Nations, which would proceed to a partition of Palestine.

Great Britain, having observed the keen interest taken by the United States Government in the Zionist Movement, requested it to assist in the discharge of the Mandate, sharing the financial and administrative costs involved. In the face of the Americans' refusal to share the responsibilities of the Mandate, the British Government decided to send the Palestinian problem back to the United Nations. With the question before it, the United Nations, on 13 May 1947, created a Special Committee on Palestine (UNSCOP). This Committee was entrusted with the Palestinian problem. Upon the appointment of the members of the Committee on Palestine, it could be foreseen that the Zionist solution, because of the choice of members, would be adopted by UNSCOP. However, upon its arrival in Palestine, the Committee was surprised to find a situation very different from that which it had expected; influenced by Zionist propaganda, it had imagined that Palestine was basically Jewish. However, the investigations which it conducted produced the following data:

	Population	
Arabs	1,200,000	66 per cent
Jews	600,000	33 per cent
	Land ownership	
Arabs	15,066 km	93 per cent
Jews	1,134 km	7 per cent

On the basis of the percentages for population and land distribution, the only equitable solution of the Palestinian problem would have been to create an undivided State, predominantly Arab but in which the Jewish minority was provided with appropriate safeguards. However, on 27 August 1947, UNSCOP established two plans for Palestine:

1. A federal State with Palestine remaining a unitary State in which Jews and Arabs would enjoy equal rights; as this plan was not in conformity with Zionist aims, the Jewish Agency intervened with the United States Government in order to request it to use its influence and have it set aside;

2. A partition plan under which Palestine would be divided into three parts: a Jewish State, an Arab State, and the City of Jerusalem administered by the United Nations.

The two drafts were put to the vote on 27 August 1947. The partition plan obtained 7 votes and the federal plan 3 votes. Thus, the partition plan was retained in spite of all good sense. The Arabs protested keenly, holding the partition plan unacceptable. However, the General Assembly, under the influence of the United States, in resolution 181 (II) of 29 November 1947, adopted the partition plan. The Zionists, profiting from this situation, established the State of Israel. Since that time, the Palestinian problem has remained unresolved. From 1947 until 1969, because of the situation of war and the non-creation of the Arab State in Palestine, the legal aspects of the question of Palestine remained in suspense.

For nearly 20 years, the essential question of the recognition and exercise of the inalienable rights of the Palestinian people was eclipsed by the Middle East conflict. During this period, because of imperialist-Zionist intrigues, the Palestinian question was regarded essentially as a "refugee problem". Unquestionably, this unrealistic and unjust way of dealing with the question was contrary to the rights of the Palestinian people, its right to self-determination and its inalienable right to return to its homes.

However, the General Assembly, breaking the first link of the imperialist-Zionist conspiracy, adopted at its twenty-fourth session resolution 2535 B (XXIV) of 10 December 1969, in which recognizing that "the problem of the Palestine Arab refugees has arisen from the denial of their inalienable rights under the Charter of the United Nations and the Universal Declaration of Human Rights", it reaffirmed "the inalienable rights of the people of Palestine". It also recognized the Palestinians as a people having national identity.

II. The right of the Palestinian people to self-determination

The right of peoples to self-determination is undeniably one of the peremptory norms of international law arising from *ius cogens*.

World action to preserve and strengthen peace and to promote disarmament and détente is closely linked to the struggle of oppressed peoples to achieve self-determination and both national and social liberation. Peace, a peaceful future and progress by mankind can be guaranteed and ensured in the long run only if those peoples who are still suffering from colonial and racial oppression can also exercise their right to self-determination and independence.

The recognition, exercise and universal application of the right of peoples to self-determination, national sovereignty and independence is one of the fundamental prerequisites for the effective enjoyment of human rights.

The United Nations Charter and other relevant international instruments provide in principle that all peoples and nations have the right to self-determination.

This right was firmly stressed in the Declaration on the Granting of Independence to Colonial Countries and Peoples, which marked the beginning of the universal trend towards the complete elimination of colonialism, and which continues to provide a firm foundation for many United Nations decisions and other international instruments and is a fundamental source of encouragement in the struggle for national liberation waged by colonial and independent peoples.

This right is also set forth in article 1 of the International Covenant on Civil and Political Rights and in article 1 of the International Covenant on Economic, Social and Cultural Rights of 1966. Similar resolutions on the matter have been adopted by the General Assembly at subsequent sessions.

It is evident that no exception should be made in the case of the Palestinian people, whose demands are solidly based and are of long standing.

The United Nations General Assembly, as already stated, has recognized this right of the Palestinian people ever since it has dealt with the problem of Palestine.

When the United Nations General Assembly was first called upon to consider the question of Palestine, it adopted the resolution recognizing the right of the Arab people of Palestine to an independent State in Palestine which, without question, amounts to direct recognition of the status of the people of Palestine.

Since 1969, it has constantly recalled the inalienable rights of the Palestinian people to self-determination, national sovereignty and independence.

The inalienable rights of the Palestinian people have been steadfastly reaffirmed in a series of resolutions adopted since 1970 by the General Assembly, which reaffirmed the earlier calls upon Israel to evacuate the territories occupied in 1967 and to respect the right of return of refugees and which recognized the link existing between the inalienable rights of the Palestinian people, its right to self-determination and the attainment of peace in the Middle East. Thus, in paragraph 1 of resolution 2672 C (XXV) of 8 December 1970, the Assembly recognized "that the people of Palestine are entitled to equal rights and self-determination, in accordance with the Charter of the United Nations", while in paragraph 2, it declared that "full respect for the inalienable rights of the people of Palestine is an indispensable element in the establishment of a just and lasting peace in the Middle East". Resolution 3089 (XXVIII) of 7 December 1973 also reaffirmed that "the enjoyment by the Palestine Arab refugees of their right to return to their homes and property ... is indispensable ... for the exercise by the people of Palestine of its right to self-determination".

A year after the 1973 Middle East war, when a majority of countries once again called for the inclusion in the agenda of the General Assembly of the item entitled "Question of Palestine", the cause of the Palestinian people for self-determination had made rapid progress. In October, the Arab heads of State and Government, meeting at Rabat, recognized the PLO as the sole legitimate representative of the Palestinian people and reaffirmed the right of the Arab people of Palestine to return to its homeland and its right to self-determination. The following month the General Assembly adopted resolution 3236 (XXIX), an essential instrument in the reaffirmation and international recognition of the fundamental rights of the Palestinian people. In paragraph 1, the General Assembly reaffirmed: (a) the right to self-determination without external interference; (b) the right to national independence and sovereignty.

In paragraph 6 it appealed to all States and international organizations to extend their support to the Palestinian people in its struggle to restore its rights, in accordance with the Charter. In paragraph 7 of the resolution it requested the Secretary-General "to establish contacts with the Palestine Liberation Organization on all matters concerning the question of Palestine". Resolution 3237 (XXIX) of 22 November 1974 conferred the status of permanent observer at the General Assembly and other international conferences convened under the auspices of the United Nations on the PLO, the sole legitimate representative of the people in Palestine, with the appearance of which the Palestinian resistance movement, qualitatively, entered a new stage of development and action. This status allows the PLO numerous, unprecedented rights. It enjoys, with the exception of the right to vote, advantages comparable to those of member States in international organizations, the right to receive assistance from the international community, the right to maintain a permanent mission, the right to the protection of the Geneva Conventions. ...

For greater clarity and in order to determine how these rights should be implemented, a committee was established under resolution 3376 (XXX) of 10 November 1975. It was requested "to consider and recommend to the General Assembly a programme of implementation, designed to enable the Palestinian people to exercise the rights recognized in paragraphs 1 and 2 of Assembly resolution 3236 (XXIX)". Resolution 3379 (XXX) of the same date equated zionism with racism and racial discrimination.

The right of the Palestinian people to self-determination was thus officially recognized by the international community. Similar resolutions have been adopted in subsequent years, including resolution ES-7/2 of 29 July 1980, by which the General Assembly, recalled and reaffirmed its resolutions 3236 (XXIX) and 3237 (XXIX) and all other relevant United Nations resolutions pertinent to the question of Palestine, and reaffirmed the inalienable rights in Palestine of the Palestinian people including the right to self-determination without external interference, and to national independence and sovereignty; and the right to establish its own independent sovereign State.

It should be noted that international recognition of the Palestinian people and its inalienable right to self-determination, sovereignty and independence has also been accorded outside the United Nations. As well as by the General Assembly, these rights have been recognized in resolutions adopted at conferences of non-aligned countries and at Islamic conferences, which reflects the commitment of the international community.

Yet despite this basic commitment by the international community, American imperialism and the Zionists, by concluding separate deals to the detriment of Palestinian and Arab interests, have sought to eliminate the Palestine liberation movement, to legalize the Israeli occupation of Palestinian and other Arab territories, and to condemn the Arab people of Palestine to eternal exile. This blatantly violates the Charter of the United Nations, General Assembly resolutions and other relevant United Nations instruments and is clearly incompatible with the generally recognized principles and norms of international law, including the right of peoples to self-determination.

It should be noted that the right of the Palestinian people to self-determination, national sovereignty and independence has been established beyond question. It remains for the international community, in particular the United Nations, to take specific, definitive steps to ensure implementation of the inalienable rights of the Palestinian people and to carry out its role and discharge its obligations to provide that people with its own independent State.

The people and Government of the Republic of Afghanistan, in accordance with their firm support for and revolutionary solidarity with the fraternal people of Palestine and its legitimate struggle, under the leadership of its sole legitimate representative, the PLO, are ready to wholeheartedly support any effective steps to ensure the inalienable rights of the Palestinian people, including its right to establish an independent national State in Palestine.

We are certain that the just cause of the Palestinian people will triumph.

F. FUNDAMENTAL RIGHTS OF THE PALESTINIANS: THE PRIMAL CRIME AND THE AMBIGUITIES OF CHOSENNESS

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The Palestine Human Rights Campaign, an organization formed in the United States, recently adopted the following slogan: "Palestinians have human rights too". This is obviously a truism. Or is it. It looks as if we have been desperately trying to convince the American people that the Palestinians are also human beings. Why, one asks, should we strain so much to bring this message to the American people. Why, we wonder, do the American people, and the West in general, show any reluctance in seeing the obvious, and persist in denying the Palestinians the full measure of human rights?

The fact that we have had to bring this simple truth to the American people and to struggle to make our readers and our listeners aware of the fact that the Palestinians are also entitled to a full measure of humanity - this fact points to a serious defect in the attitude of Americans towards the Arab-Israeli conflict - a defect that goes beyond lack of information, Zionist political and economic pressure, or plain social bigotry.

I will attempt to investigate the fundamental reason for this apparent moral and political gap in the conscience of the West. This is going to be a diagnosis only, not a prescription for a cure.

This symptom has two sides to it. On one we find an almost irrational support of Israel (at the outset, I should point out that I am separating the term "Israel" from the term "Jews") and on the other side and equally irrational denial of the Palestinians, their rights, their humanity, their persons. These two elements of the problem are closely interrelated, and cannot be easily and successfully discussed separately.

We could attribute this attitude to the spirit of colonialism in the West which has had a long history of denying the rights of colonial people, and which lingers on here and there. But colonialism, especially the endemic and extreme kind, cannot be explained only in political and economic terms. There is another dimension to it which goes beyond the practical aspects of political power and of exploitative economics. This added dimension, which sometimes exceeds the rational consideration of self-interest, and turns even against its user, is of a mystical-religious nature, whether it be called the White Man's Burden, the Civilizing Mission, the Manifest Destiny, or the Sacred Covenant. Once this mystical element enters into the colonial venture of nations, the subjected people of this venture suffer the most extreme forms of denial of rights, dispossession, even extermination. It is this mystical, religious element in the Zionist colonization of Palestine that is basically responsible for the dehumanization of the Palestinians by denying them fundamental rights.

The religious factor in the creation of Israel and in the disenfranchisement of the Palestinians is more pronounced and much more prominent than in any other colonialist experience in modern Western history. Although all colonial movements have a large dose of mystical components, and the treatment of the indigenous Indians displays a large measure of it, the Zionist movement has a religious core without which it would be formless. Zionism owes it form and its content to the mystical-religious foundations in the Bible. It is there that the possession of land by one party is deemed as an act of piety, and the colonization of Palestine as climactic even in sacred history. It is in these religious foundations that the policy towards the indigenous population is given a divine finality. The original inhabitants of the Holy Land have to be considered non-persons, to be shunned, denied, expelled, dispossessed, deprived of livelihood and of life.

Since this religious tradition is also shared by Western Christendom, both the promise to the Jews and the denial of the non-Jews, that is, the Palestinian Arabs, have a widespread acceptance. This acceptance is not found only among the rank and file, but also among many thinkers, writers, theologians, priests, teachers, politicians and presidents. It is well established by a long tradition, by a respect for the scripture without questioning, and among a growing number of conservative Christians, by an odd interpretation of prophecy and a professed belief in a godly plan involving the reconstruction of Israel, which takes precedence over human considerations, pity, or fair play. It is this aspect of the Palestinian problem that is the most difficult to come to grips with. It bears some more exploration.

The Primal Crime

Let us explore the American model of a colonial venture dealing with indigenous population - a venture which had a mystical-religious aura. Robert Bellah, in his book The Broken Covenant (pp. 36-37), describes the attitude of white America towards the indigenous population:

> "Thus at the very beginning of American society there was the primal crime against the Indians ... For a long time, indeed for centuries, the new settlers failed to appreciate the fact that the people they found here lived in a different dream. Whether the Indian was seen as noble or as horrid savage, he was treated as if he were a character in the European dream, as if he had no dream of his own ... This failure to see the Indians in their own terms was only the cultural side of a denial of humanity that was also expressed in economic and even biological terms. Thus Indians were deprived by the new settlers, not only of the inherent human right to have one's culture understood and respected, but they were ruthlessly deprived of land and livelihood and all too often of life itself. This was the primal crime on which American society is based ... We must ask what in the dream of White America kept so many for so long, so many even this day, from seeing any crime at all. For that we need to consider the ambiguities of chosenness."

The primal crime in Bellah's thesis consists of the denial of the humanity of the Indian explicit in depriving him of his fundamental rights. He correctly points to the "ambiguities of chosenness" as the cause for the callousness that permeates a society which refuses to see, or is incapable of seeing, any crime at all in this behaviour.

We only have to exchange the terms America and Indians with the terms Israel and Palestinians to realize how much the biblical concept of chosenness, of covenant, is responsible in both cases for the primal crime of denying fundamental right to indigenous inhabitants of an exclusively claimed land. The prototype of chosen White America, of apartheid South Africa, and of modern Israel is biblical Israel. And the figure of the despised and dispossessed Indians, of the African Bantus, and of the modern Palestinians is also biblical. It is the Canaanites, the indigenous goyim, whose existence on the land was not to be tolerated by divine order. They were, as it were, cynically chosen to bear the eternal curse that serves as explanation and justification of the primal crime.

The ambiguities of chosenness

The American example of chosenness is, at best, a mirror image of biblical Israel. But modern Israel is claimed as a direct descendant of the biblical one, a continuation and a fulfilment of a historical entity based on a divine election and a sacred promise of land. Accordingly, the chosen does not have to justify his favoured position or to apologize for his disregard for the rights of others. His position is predetermined by a divine order. The primal crime, if it exists, is not of his doing.

While Zionist thinkers also attempt to present Jewish nationalism as a modern movement based on conditions that existed in the nineteenth and twentieth centuries, the fact remains that ideologically, ethnically and territorially, this modern movement is primarily based on the biblical prototype of Israel. The name "Zion" focuses on the territorial definition of Israel in the Bible. The name "Israel" reflects the intertwining of racial and territorial elements made sacred in the Bible. Consequently, when Zionists speak of their historic right to Palestine, they refer by necessity to a history and to a historical philosophy found in the Bible and in the Rabbinical literature. To deny the "historic right" of the Jews to Palestine is to challenge the scriptures. This is an article of faith to some Jews and Christians, and it also serves as an effective public relation tool to influence the Christian world favourably towards Israel and unfavourably towards the Palestinian quest for fundamental rights.

That the Bible is at the roots of zionism is recognized by religious, secular, non-observant and agnostic Zionists. Thus, Moses Hess, who preceded Herzl and who is considered one of the spiritual fathers of zionism, recognized and preached the principles of interdependence of religion and nationalism in Jewish life (see his book Rome and Jerusalem). To him Jewish religion was, above all, Jewish nationalism. Ben-Gurion was often biblical and mystical in his writings and speeches, calling the Bible the "sacrosanct title-deed to Palestine" for the Jewish people "with a genealogy of 3,500 years". (The Rebirth and Destiny of Israel, p. 100.) With a sacrosanct title-deed to a piece of land, Ben-Gurion was explaining that he did not have to conform to regular, mundane rules of behaviour. In an address to an international conference, he declared that "the Jewish vision of redemption has two aspects: the ingathering of the exiles and the continuation of the Jewish people in its land as a chosen people, and as light to the nations" (Ben-Gurion Looks at the Bible, p. 111). This statement contains and transcends all the claims of colonialists from the Crusaders' cry of "God wills it" to the American settlers' boast of Manifest Destiny, to the Afrikaans' pretension of covenant.

The biblical concepts of promise of land, choice and covenant are supranational, sacralized concepts producing a sacred historical right exclusively for the Jews and exclusively in Palestine. This concept places the indigenous population of Palestine, the Arabs of today as were the Canaanites of biblical time, in double jeopardy. They are summarily deprived of human rights by the claim of exclusive election of the Jews by God, and deprived of their property by the exclusive promise of the land to the chosen ones.

The biblical ban on any form of cooperation with, and understanding of the indigenous goyim was clear and often repeated in the texts. It was made a condition of God's continued patronage of Israel. The following quotation from the book of Deuteronomy (7:1-6) illustrates the point:

> "You must not make a treaty with them or spare them. You must not intermarry with them, neither giving your daughters to their sons, nor taking their daughters for your sons; if you do, they will draw your sons away from the Lord and make them worship other gods. But this is what you must do to them: pull down their altars, break their sacred pillars, hack down their sacred poles and destroy their idols by fire, for you are a people holy to the Lord your God; the Lord your God chose you out of all nations on earth to be his special possession."

It is easy to see that this ancient text does not vary much from current Israeli official policy and from the attitudes of the Israelis generally towards the Arabs of Palestine.

A narrow interpretation of the scriptures, which is common among many Jews and many more Christians, makes the destiny of Israel and that of the Palestinians mutually exclusive. Just as the American Indian had to be removed by European settlers because of cultural and religious prejudices, the removal of the Palestinians is considered a sine qua non for the purity, welfare and security of the Jewish State. One party had to disappear to make room for the other, not for the lack of room, not because they could not, but because they should not live together. Thus the decision to remove the Palestinians and to deny them their fundamental rights was not one motivated by political, economic, or social considerations only, but by an added dimension of religious, mystical conviction, one that by its nature is unreasonable and uncompromising. Its total dogmatism is placed at the doorstep of the Lord Himself. In practice, modern Israel seems to have wholly adopted the biblical blessing and the biblical curse; the blessing exclusively reserved for the "holy race", the chosen people and the curse placed in eternity on the indigenous goyim, be they called Canaanites or Palestinians.

The blessing and the curse are the two sides of one coin, that of Israel as a State divinely reserved for one favoured race. To admit that the Palestinians have rights in that land - to some even admitting that they do exist at all - is one way of denying or questioning this exclusive divine patrimony. Hence, the refusal of all Israeli Governments on the right and on the left, to recognize the Palestinians and the PLO cannot be explained only in terms of political advantage or political expediency. American concurrence with that position is likewise attributable in part to that same religious conviction.

For Israelis, to recognize Palestinians and their rights is tantamount to an admission of committing the primal crime. In view of the experience of the Jews at the hands of the Nazis, who also believed in their own sacred destiny and in a racial curse placed on their non-Aryan neighbours, any suspicion of similarity between Nazi and Zionist philosophies and behaviour would create a crushing burden of guilt. To be safe from the damaging effect of this analogy, some Zionists have convinced themselves that the Palestinians do not really exist (a land without people), or that they are really of a lower quality of people, that they are all terrorists who kill women and children. But most of them still find refuge in biblical mythology. For if one accepts the principle of the divinely favoured person, one needs only a short step towards accepting the principle of the divinely cursed and dispossessed person.

On the American and Western side, the biblical anchor of pro-Israeli sentiment justified Israel's actions in claiming Arab territories and in striking at the Palestinians. This comes from a commitment of faith, as A. Roy Eckardt puts it. To raise questions about such commitment amounts to heresy to some conservative churchmen. It is this aspect of the problem that explains the American claim of a "moral commitment" to Israel.

The theology of the territorial imperative

The concept of "promised land" is tied closely to that of the chosen people. Without the land, according to the biblical territorial theology, the covenant with the Jewish people would be incomplete. It would have no earthly basis. An important part of the Torah and the Prophets would lose their relevance. Rabbi Wolfe Kelman, Chief Executive Officer of the International Association of Conservative Rabbis, commenting on a proposed Vatican document concerning relations with Judaism, welcomed in particular the document's proposed "recognition of the reality of the State of Israel", its assertion that Jewish fidelity to the Old Covenant between God and the people of Israel is "linked to the gift of land, which in the Jewish soul, has endured as the object of aspiration that Christians should strive to understand and respect" (Christian Century, 24 January 1970, p. 39). The Rabbi's preoccupation with "God's gift of land" pre-empted any reflection on his part as to the injustice that might be dealt to those who already dwell on the land. Rabbi Nissim, Chief Rabbi of Israel in 1968, was direct and unequivocal in his assessment of this question. He said:

> "The Land of Israel was, with its borders, defined for us by Divine Providence. Thou shalt be, says the Almighty, and there it is; no power on earth can alter that which was created by Him. In this connection it is not a question of law or logic; neither is it a matter of human treatment or that sort of thing" (Hayom, 7 June 1968).

It is clear that the biblical attitude towards the Promised Land is behind Israel's policy of "land redemption" consisting of dispossessing Palestinians and restricting ownership and development of property to Jews only, of the constitution of the Jewish National Fund, and of the official settlement policy in "Judea and Samaria".

The seizure of the property of the Arabs is demonstrably based on arbitrary choice of race sanctioned by biblical precedence. The history books of the Bible contain examples of that same policy, especially the books of Ezra and Nehemiah. It is clearly and openly not based on right, legal or moral, but on a suprarational entitlement of one party and the mysterious disfranchisement of another. In the book of Deuteronomy (6:10), it is made quite obvious that the Lord had decreed that the land and everything on it was given unconditionally:

> "The Lord your God will bring you into the land which He swore to your forefathers Abraham, Isaac and Jacob that He would give you, a land of great and fine cities which you did not build, houses full of good things which you did not provide, rock-hewn cisterns which you did not hew, and vineyards and olive trees which you did not plant. The biblical right to the land is quite absolute."

Consequently, the denial of any right to any people but the chosen one is likewise absolute. The ultra-religious take this road without any apologies. However, many so-called liberal Zionists have worked diligently on an apologetic system to justify the Jewish claim to Palestine without having to go all the way to deny the rights of the Palestinians.

From these sporadic pangs of conscience among liberal Zionists and some Christian theologians grew such theories as the two-rights theory, the Jewish cultural home theory, and the let-them-live-among-their-own-kind theory. Martin Buber, the famous Jewish humanistic theologian and philosopher, extended a hand of peace to the Arabs and supported the Brit shalom of peaceful coexistence. But his religious writings are replete with elaborations on the biblical concepts of the Promised Land and the chosen people. His complete insistence on the eternal relevance of the biblical covenant, the chosenness of Israel, and the consecration of the land of Israel to the mission of the Jews to the world controverted the universal aspects of humanism. If, according to this theology, the land of Israel was elected by God since the beginning of time to be the home of His chosen race, then His recognition of the Palestinians is but a matter of tolerance, not of complete acceptance on equal terms.

This attitude is also found among Christian apologists for Israel. The renowned American theologian, Reinhold Niebuhr, was one of those. His total support of Israel was based mainly on theological deliberations and some feeling of guilt. His sense of justice and his Christian compassion, however, made him sensitive to the plight of the Palestinian Arabs. He therefore recommended that they be well-treated, compensated, and settled somewhere else other than in Palestine, their original home. Niebuhr's sense of justice was restricted by his theology. His discrimination between what is right for Jews and what is right for non-Jews was caused by his attachment to the biblical doctrine of covenant interpreted closely as linking, in a mystical way, the chosen people to the Promised Land. The Palestinians, although deserving pity, are primarily a hindrance to the fulfilment of sacred destiny.

Christian zionism and the Palestinians

Neibuhr's political theology can be dubbed as Christian zionism. He is of the mild, moderate variety compared to another breed of theologians and preachers whose power and number is on the rise. Evangelical fundamentalists are spreading the gospel of the priority of Israel in the Divine Economy on an increasing number of pulpits, radio and television stations all over the United States and Canada.

Niebuhr's Christian zionism is squarely based on the biblical view of history. Israel, the ancient and the modern, according to his view, is a biblical category, one of the mysteries of man's historical existence. In an article in the Nation (21 February 1942, pp. 214-16), written during the Second World War, he defended the right of Jews to Palestine as a "collective right". He attacked "modern liberals" because their "individualist and universalist presuppositions and illusions" have prevented them from seeing "obvious facts in man's collective life". The "collective survival impulse" of the Jews is a matter of historical justice, he said. To him the alternative would be collective extinction. The collective will of the Jews, he maintained, requires expression in a homeland for the Jews. Although Neibuhr admonished Zionists for some individual (not collective) acts of brutality, he could not see that this would diminish their collective right to Palestine. All this collectivity conferred by him on the Jews never once reminded the eminent theologian that Palestinians may have a collectivity of their own. The biblical foundations of his theopolitics would preclude such an even-handed approach.

The increasing preoccupation of the fundamentalist Christians with the text of the Bible dealing with history and with prophecy keeps Israel on their minds and in their sermons. Most Christians, therefore, cannot escape confronting the issue of the relevance of the State of Israel to their beliefs, hence taking a stand, mostly a negative one, toward Palestinian fundamental rights. Rejecting any relevance of the question of Israel to their religious life might require strenuous theological exercises. Accepting it, on the other hand, is accepting on faith the total and absolute authority of the biblical text. Either way, Israel is a question of concern to most American Christians. Their awareness of the Jewish State, its problems, wars, and enemies exceed their awareness of any other country.

To the majority of fundamentalist Christians, the Jews have not accepted Christ, therefore their prayers cannot be heard. Yet these same people support Israel wholeheartedly because they believe that the creation of the Jewish State is a sign, according to biblical prophecy, that the Messiah is coming. The Jew may not be totally an acceptable person in his current state of non-belief, but he is still a chosen one who will eventually be saved. No such status is accorded to the Palestinians. They are hopelessly locked into a negative role; they are non-persons, and non-persons have no claim to rights. Their greatest misfortune is that they constitute a stumbling block in the road of salvation. The term "terrorist" given to Palestinians constantly by fundamentalist ministers such as Jerry Falwell, take an added meaning. It contains connotations of eternal evil, an evil that is as predestined and absolute as the chosenness of the holy race and the salvation of the true believers are predestined and absolute.

An advertisement placed in 1976 by a large group of churchmen, mostly Baptist, in many important newspapers, illustrates very well this absolute discriminatory attitude. It says in part:

> "Because the Jewish people are the people of prophecy they are the people of the land. And we, knowing Him who made the promise, totally support the people and the land of Israel in their God-given, God-promised, God-ordained right to exist. Any person or group of nations opposed to this right isn't just fighting Israel. But God and Time itself."

How, one might ask, can the Palestinians claim any right, compassion or justice, when they are fighting Israel, God and Time itself?

G. THE PALESTINIAN QUESTION AND THE RIGHTS OF THE PALESTINIAN CHILD

Salwa Abu Khadra
(Palestinian)

By its resolution 3376 (XXX) of 10 November 1975, the General Assembly of the United Nations established the Committee on the Exercise of the Inalienable Rights of the Palestinian People. The mandate of this Committee was to recommend a programme designed to achieve respect for those rights and their implementation in accordance with General Assembly resolution 3236 (XXIX) of 22 November 1974.

The Committee recommended a plan of action (A/31/35) which may be summarized as follows:

(a) Repatriation of the Palestinian refugees in two phases:

  (i) The refugees of 1967: immediate repatriation;

  (ii) The refugees of the period 1948-1967: repatriation of compensation in accordance with the relevant resolutions of the United Nations, in particular General Assembly resolution 194 (III) of 11 December 1948;

(b) The complete withdrawal of Israeli forces from the territories occupied in 1967 and scrupulous observance by Israel of the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

(c) The establishment of an independent Palestinian entity;

(d) The adoption of further arrangements to ensure full respect for the inalienable right of the Palestinian people, taking account of resolution 3375 (XXX), and the need for the establishment of a just and lasting peace in the region in accordance with all relevant resolutions.

The Committee recalled the fundamental principle of the inadmissibility of the acquisition of territory by force and stressed the consequent obligation of total and speedy evacuation of any territory thus occupied.

No action was taken by the Security Council. Thus, the General Assembly, in resolution 34/64 A of 29 November 1979, expressed its regret and concern that the recommendation of the Committee had not been implemented and once again requested the Committee to make appropriate suggestions to that end.

The Israeli entity has taken no account of those regrets, expressions of concern or warnings, whether emanating from the General Assembly or from the Security Council. It has repeated its attacks and acts of aggression against occupied Palestine and southern Lebanon, in towns as well as in refugee camps, disregarding United Nations resolutions and rejecting them with insolence and arrogance.

Although the Charter of the United Nations provides for a whole range of enforcement measures to ensure respect for the resolutions of the Organization, no measure of this kind has so far been taken.

Enforcement measures would, unquestionably, induce Israel to submit to United Nations resolutions, as was the case in 1957, at the time of the aggression against the Suez Canal, when President Eisenhower stated that the United Nations had no other choice than to put pressure on Israel to force it to implement the resolutions calling for its withdrawal.

Unfortunately, the attitude of American leaders vis-à-vis the bellicose aggression to which the Palestinian people and the land of Palestine are continually being subjected has changed radically. It has become selfish and partial, which allows Israel to enjoy unprecedented support and ensures it a veto against any resolution condemning its violations of the Charter of the United Nations and the Geneva Convention which might lead to the adoption of enforcement measures.

The United States seems to wish to give the Zionists its total support in the construction and maintenance of a State on the land of another people and to disregard the relevant resolutions of the General Assembly and the Security Council, some of which were drawn up with the assistance of United States representatives, such as General Assembly resolution 181 (II) of 29 November 1947 and Security Council resolution 242 (1967).

The State of Israel was established with a plan for expansion and hegemony over the neighbouring Arab States, in accordance with the interests of certain Western Powers. The United States is responsible for the impasse in the Middle East because it has helped the Zionist entity to become an unrivalled Power in the region by its financial and economic assistance.

Since the Palestinian people is an obstacle to the realization of the Zionist ideology, their extermination, annihilation, deportation and integration in the country of exile and the subjugation of its will to fight in defence of its rights, all serve to ensure the realization of Begin's plans for a "Greater Israel".

The first Zionist leaders launched the slogan: "A land without a people for a people without a land".[1] (Tables 1, 2 and 3)

> "This is how the policy of Deir Yassin was imposed, that tranquil village whose whole population was savagely massacred, men, women and children, and not even the unborn child in its mother's womb was spared. The massacres and expulsions had one aim initially, the establishment of the State. There can be no Zionist colonization and there can be no Jewish State without the displacement of the Arab population, the confiscation of land and the erection of barriers."[2]

Racial discrimination came in the wake of the State. In order to maintain and develop this State, a new tactic was needed. The Arabs were treated harshly and cruelly.

> "In order to force them to leave by every means, it was necessary to raze villages and demolish houses: Mass deportation, expulsion and the confiscation of land".

All possible means became legal, as did the Judaization of everything: land, culture, names, places, education and history. Thus, the Palestinian Arabs felt themselves strangers on their own lands, having no national rights to a State or other entity.

It must be Israel and not Palestine. It must be Galilee and Samaria and not the Palestinian West Bank. The citizens must be Israelis not Palestinians. Begin, the one who prepared the Deir Yassin massacre and the recent savage bombing of civilians in Lebanon, seems to be of the opinion that it is necessary to annex the territories and reduce the population by carefully conceived and implemented immigration. The figure of 385 villages destroyed by Israel is given by Israel Shahak.[3]

Begin's 1977 plan distinguishes between the fate of the population and that of the land. The situation of the Palestinian people in exile is completely different. They suffer from infringement of human rights in another form because of their dispersal and statelessness. This unique political situation, which has lasted for more than three decades, has even more disastrous consequences for Palestinian children than for adults.

The children born in exile in camps, who have grown up as refugees, who have studied in the crowded classes of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) schools, who have waited for the end of the month receive their meagre food allowance, and who still have no recognized identity - these children (who have never seen their homeland) currently constitute the bulk of revolutionary freedom fighters.

They struggle for the exercise of their national historic rights and so that their children can enjoy the rights proclaimed in the international Declaration of the Rights of the Child of 1959.

In all countries, children enjoy some of their rights. The young Palestinians, whether living under occupation or living in exile, are almost totally deprived of them. The situation is slightly better for the latter. Measures have been taken on his behalf in the field of health, education and social welfare. The Palestine Liberation Organization, through its various research, planning and educational institutions and centres, carefully organizes programmes relating to all areas of life. The importance which it attaches to young Palestinians actually relates to the national interests; only thus can it ensure the quality of the future of the nation and its capacity to survive and prosper.

> "Palestinian children and their families have been the victims of aggression, emigration, expulsion, discrimination and exploitation, acts of oppression which have made their youth an ongoing preparation for defence and war."

Palestinian children are therefore sensitive to the tensions of exile and occupation. They experience this situation and share the ordeals of their parents and the deprivation of freedom of their community. Their environment engenders the consequences of subjection to this new form of colonization, namely, the Judaization of the country. The ordeals of war and instability condition their existence. The aggressiveness and tensions are very violently felt and are normally directed against the oppressor (the enemy) who is occupying the land and who has taken possession of the homes. Thus, a stone becomes a grenade in the young person's hand, and the stick is a substitute for a gun. Demonstrations, nationalist slogans and songs and the hoisted Palestinian flag express their natural reaction in defiance of the occupiers. (Security, an indispensable condition for a child's development, does not exist in the life of a young Palestinian.)[4]

If he lives in the occupied territories, a young Palestinian may see his house blown up at any time and, if he lives elsewhere, he may also see it bombed at any time.

> "The ever more numerous ordeals which a Palestinian child must face each day - bombings, expulsion, destruction of property, demolition of houses, arrests and famine - force him to mature and to leave his childhood behind early. Instead of the games with which all children throughout the world amuse themselves, he learns to distinguish the sound of enemy war planes from that of civilian aircraft, he listens to the news and becomes familiar with the various kinds of weaponry ... his mind is concerned not with laughter and amusements but with survival and return."[4]

The Declaration of the Rights of the Child, adopted on 20 November 1959, was given practical expression by the proclamation, in 1979, of the International Year of the Child. The Declaration affirms the rights of the child to be given opportunities and facilities to enable him to develop in a healthy and normal manner and in conditions of freedom and dignity (principle 2), to receive an education (principle 7), to be protected against practices which may foster any form of discrimination (principle 10) and to be protected against all forms of neglect, cruelty and exploitation (principle 9). All the other principles emphasize the right of the child to love, to care, to opportunities, to development and to happiness. The Declaration also states that the child shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood.

The attainment of these ideals remains the goal of the international community but, owing to the exceptional circumstances in which they find themselves, Palestinian children living in the West Bank and Gaza Strip under the Israeli regime also come up against other difficulties: "They must live with military occupation, and it is an experience that is unknown to the majority of children in the world".[5]

The following is a breakdown of the population by age group:

Age of inhabitants at the end of 1977	West Bank		Gaza Strip and northern Sinai	
	Number	Percentages	Number	Percentages
0-14	316 000	46.4	209 100	47.5
15-29	183 400	26.9	123 100	27.8
30-44	77 800	11.4	50 300	11.4
45-49	60 500	8.9	37 700	8.5
60 and over	43 300	6.4	21 100	4.8
	681 000	100.0	441 300	100.0

It may be seen from these figures that nearly one-half of the population is under 14 years of age.

The question of education therefore assumes very great importance.

Educational services

Many reports have given an account of the situation of the educational services and the extent to which the rules imposed by the Israeli occupying authority have influenced the education of Palestinian children, but no in-depth study has ever been made of the moral and mental impairment of the children's personalities.

> "The educational institutions are managed by the occupying authority (official schools or government schools), by private bodies or by UNRWA."
>
> "In general, the schools follow the Jordanian curriculum of education in the West Bank and the Egyptian curriculum in the Gaza Strip."[6]

In his report on the situation of the national education and the cultural life of peoples in the occupied Arab territories, the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) notes that "the government schools in occupied East Jerusalem had their curriculum modified to conform to that applied in the Arab schools of Israel, and the Israeli textbooks used in Israel for its Arab schools were introduced in these government schools".[7/]

> "The Israeli authorities began to print expurgated and amended versions of the existing Jordanian textbooks used in the West Bank before the occupation.
>
> "The list of titles reprinted by the Israeli authorities for use in West Bank government schools shows that a number of geography and civics books and the school atlas prescribed in the Jordan curriculum have been dropped. ... The texts themselves are often identical, although several books have phrases, paragraphs or complete chapters suppressed."[5/]

It was claimed in the survey for the period 1967-1980 prepared by the Israeli Minister of Defence that, since the start of the Israeli military administration, the educational system had been allowed to operate according to the prevailing formula in each area (of the West Bank and the Gaza Strip).

> "The Israeli administration has in no way interfered with the 'Arab national system'. The only difference is that the anti-Israel slanders contained in the textbooks were eliminated."[8/]

It was also stated in the survey that, between 1967-1968 and 1977-1978, israel banned only 14 Jordanian and 23 Egyptian textbooks.[9/]

However, the Commissioner-General of UNRWA stated in his report to the General Assembly at its thirty-fifth session (New York, 1980), that of the 95 textbooks approved by UNRWA for West Bank schools, 82 were approved by the Israeli authorities, who authorized the importation of only 15 of the 69 textbooks approved for schools in the Gaza Strip, while 4 textbooks were still under consideration.[9/]

In a study, the Economic Commission for Western Asia (ECWA) states that the education policy of the Israeli occupying authority seriously limits the acquisition of knowledge regarding Palestinian culture and history. The occupation authorities delete from the curricula everything which relates to Palestine - love of one's country, patriotism and national identity. References to the Arab contribution to human culture and history are censored. Atlases where the name of Palestine appears are replaced. All ideas which are regarded as incompatible with Zionist and Israeli concepts are banned.[10/]

According to the Statistical Abstract of Israel, 1978, the number of educational institutions increased from 821 to 1,000 in the West Bank, an increase of 21.8 per cent, and from 166 to 270 in the Gaza Strip, an increase of 38.5 per cent during the first 10 years of occupation.

According to the ECWA 1968-1977 Statistical Abstract, the number of establishments grew by 33 per cent in the Syrian Arab Republic, by 32 per cent in Egypt, and by 78.6 per cent in Jordan.[12/]

The position of the Zionist entity on the expansion and the efficiency of schools in the occupied territories is controversial; despite denials, several Israeli newspapers, such as The Jerusalem Post of 11 April 1980 and Ha'aretz of 20 March 1980, have claimed that "the Israeli occupation authorities discouraged efforts by the inhabitants of the West Bank and Gaza Strip to found new schools or to expand existing ones".

The occupation authorities have not applied the pre-1967 law on compulsory schooling.

They have enacted a law stipulating that students who have been arrested or imprisoned shall not be re-admitted to school without the approval of the military Government.

Israeli acts of aggression aimed at Palestinian schools are now a well-known fact. In August 1978, Time magazine shows photographs of criminal acts committed in the Beit Jala school. Israeli soldiers, after closing the doors and windows of the building, threw tear-gas bombs into the classrooms. Terrorized, the children jumped from the third floor and a number of them broke their legs; those who did not jump were found unconscious. The Beit Sahour school met the same fate. The Israeli soldiers who were present deplored that situation, which they called "a Nazi act", affirming that some of the children were only 8 to 10 years old.

On 9 April, Israeli military forces attacked the Bir Zeit University and seized the identity cards of 22 students. They also attacked the UNRWA teacher training centre at Ramallah, using tear-gas, clubs and knives. Twenty-four students were wounded, 4 seriously, and 42 students were arrested during the mass demonstration organized to commemorate the anniversary of the Deir Yassin massacre and to protest against the Israeli decision to expropriate hundreds of dunums of land in order to establish six settlements there.[13/]

On 12 April, the occupation authorities closed a secondary school at Safa for an indefinite period. On 1 May, Zionist soldiers attacked the Anabta secondary school; one student was killed and two others wounded.[13/]

On 9 June, Zionist soldiers shot three bullets into Taghrid Al-Butma, a 20-year-old student, who was going to the Bir Zeit University, killing him.[13/]

Those are incidents which have repercussions on the atmosphere in which Palestinian children live.

With regard to educational institutions in the occupied territories, the Group of Experts notes in its report that "it would appear that the occupying authorities ... have created and sustained a feeling of insecurity among teachers and students in all educational institutions. The experts were told of constant harassment of students and staff".[14/]

Mr. Hanna Nasser, President of Bir Zeit University, states on the occasion of a visit made to American universities in 1979 following the closure of Bir Zeit University on 2 May 1978, that he had been deported without trial in 1974, while one of his colleagues, Professor Taysir Aruri, had been detained without charge or trial for 45 months and that the University had been closed several times.

> "The students in the Department of Education are refused access to the data necessary for research work, and those who wish to do field work in the schools are prevented. The University's acquisition of non-political academic works and Arab newspapers is subjected to considerable restrictions. The customs exemption in force before the occupation is no longer respected. Work permits for foreign faculty are issued only after several months of waiting. The University's community work programmes have been set back considerably." [15/]

It should be noted also that military order 854 empowers the military administration officer-in-charge of educational questions to issue teaching permits to academic university or institutions and that such permits are issued or withdrawn in accordance with security considerations, in which police and military organs are involved. This officer may also withdraw teaching permits from individuals who have been condemned for security-related offences or who have been placed in administrative detention or prevent permits being issued to such persons. Freedom to teach and freedom to receive education in occupied Palestine must depend on the military officer-in-charge of educational questions.

In its study "Social programmes and data in the ECWA region", 1980, the Commission touches on another aspect of the life and schooling of Palestinian students: "Students attending various levels of schooling are often compelled to drop out of school in order to supplement the family income as a result of the absence or loss of the father, the separation of families and the high rate of inflation. Your students are recruited for unskilled jobs in various ways, including harassment during examinations in order to make them fail".

This is how the Group of Experts sums up the situation in one paragraph of its report: "In discussions with educators from the West Bank, it was repeatedly pointed out to the experts that the climate of occupation was not conducive to the creation of suitable conditions for the educational process. ... because the economy was under the control of an occupying power and political power was exercised by the army, the normal educational and manpower planning process to meet national goals could not be undertaken". (Report, p. 35).

Job opportunities

Job opportunities are extremely few in number. According to the 1979 report of the International Labour Organisation (ILO), approximately 3,500 students obtained a diploma between 1968 and 1977. It is stated in the report that the Zionist authorities had told members of the mission that approximately 40 per cent of those receiving diplomas from vocational training centres found jobs in the occupied territories, and 50 per cent in Israel. The impression emerges from the report that the level of training is not very high and that students are generally trained for semi-skilled jobs, of which the Israeli economy has great need.[16/]

> "When Arab students reach the stage of preparation for examinations in a secondary school, they realize clearly that the school in which they have studied has brought them only a limited amount of knowledge. Officials of the Ministry of Education must recognize that the level of education in Arab schools is very low.[17/]

This situation is due partly to the meagre budget allocated to Arab schools. The policy of discrimination between Arab and Jewish employees is evident from the annexed scale of teachers' salaries (table 4).

This acknowledged discrimination was the essential cause of the 1980-1981 strike of teachers in the West Bank and Gaza Strip. If the Palestinian teachers have decided to resume work, it is only out of concern to respect their moral and national obligations to students.[18/]

Exploitation and work of young children

In August 1975, Israeli television presented a film showing Palestinian Arab children working on Israeli farms. A. Sharon, Minister of Agriculture at the time, was accused of employing 25 Palestinian children on his ranch. Sharon himself accused Dayan of the same practice. On 29 August 1978, it was revealed to Israeli public opinion that the Jewish Agency employs very young girls, about 12-years-old, to attend to the cleaning of the Ramona School at Haifa. Neighbours said that that had been going on for years and that the girls were mistreated.

> "Many children from the occupied territories, 9 to 10 years old, are working in the fields and farms of Israeli settlers, in urban restaurants and in garages, with no limitations on hours of work and for ridiculously low wages. Many children are even employed for night work, in conditions that are neither human nor social. Hundreds of boys and girls in the occupied territories are detained in prison, often without trial because they are hostile to the occupation."
>
> "Israeli employers make a fortune by exploiting Palestinian children. Their wages to not exceed 20 per cent of those of adults (80 to 400 shekels), they work 14 hours a day and have no social rights. They are collected at 3 in the morning and they are never back before 6 in the afternoon."[19/]

Felicia Langer deplores the situation of Arab children in Israeli prisons:

> "Following the demonstration held on 18 March 1978 in Kalandia camp, 11 children aged from 12 to 16 years were arrested, tortured, imprisoned for several months before appearing before a military court."[20/]
>
> "The children are held in ordinary prisons, sometimes in the same cell as ordinary criminals, who make assaults on them. That happened at Tulkarm prison in April 1978 where two prisoners, one of whom is an habitual offender in this area, assaulted a 16 year old student in his prison cell."

In her work My Eyewitness, Felicia Langer describes also the abduction of 11-year-old children with marks from blows on their faces, and she reports that the Zionist policemen said of them: "These are not mere children. These are the enemies of the State. Pay no attention to their youth, because these are terrorists".

Gold Meir, who tried to ignore the existence of a Palestinian/Arab people,
was herself moved by the cry of a Palestinian newborn child.

Health services

Inadequacies of medical services and lack of measures to develop them in the occupied regions, a decrease in the number of private sector physicians following deportation, expulsion and a ban on returning home - all these factors explained the low level of medical services in the occupied territories, which has increased infant mortality.[21/]

According to official statistics, the mortality rate in Ramallah was 7 per cent in 1973 and 8 per cent in 1975, the highest rate in the world.

> "Palestinian children are anaemic because of a lack of iron. According to UNRWA statistics for 1979, 'one half of the children under 3 years of age in the refugee camps barely reach a satisfactory health level, while the other half are anaemic'.[22/]
>
> "The struggle for the rights of the child is inseparable from the struggle against colonialism, fascism and racism".[23/]

We believe, therefore, that the United Nations should protect our children from war and oppression. The vicissitudes of occupation and exile deprive them of the most elementary rights and human dignity. One third of them have no opportunity for schooling. Many of them have experienced more than once the sad condition of refugees, while others find themselves, while still young, at the head of a family, after losing their parents. They are thus victims of an irremediable prejudice, on both the moral and physical plane. The violation of their rights deprives them of the normal resources that would enable them to enjoy the economic and social conditions necessary for their development. The right to life, the first of the fundamental human rights, is denied to the Palestinian child.

How will Palestinian children ever be able to enjoy the happiness, national freedom and peace which are their birthright?

Is it possible to envisage a future where freedom and a national home will help us to create a normal situation where hunger and malnutrition will no longer exist, where education will prepare them to assume their duties as responsible citizens, where the sky and the sea will no longer bear missiles and bombs and where, in the stability of a home, these children will be able to face the problems which are those of all children throughout the world?

Until such time, Palestinian children will continue to fight, with their elders, for the achievement of their goals and for the establishment of their own State in their territory, or more succinctly, for the attainment of their inalienable historic national rights.

Notes

1/ "Give the land without a people to the people without a land", Zionist leader Israel Zangwill. See, for example, Yigal Allon, Ha Sephler Ha Palmach; Ben-Gurion, Rebirth and Destiny of Israel; Menachem Begin, The Revolt. Story of the Irgun.

2/ Yesha Arjahu Ben-Pirat. Yediot Aranot, 14 July 1972.

3/ See Guy Derthur, Le racisme de l'Etat d'Israël (Paris, 1975).

4/ Bassem Sarhan, The Arab Children - Generation of Liberation, p. 98.

5/ Report of the Group of Experts.

6/ Ibid., p. 33.

7/ United Nations Educational, Scientific and Cultural Organization, Records of the General Conference, Eighteenth Session, 1974 (Paris, UNESCO, 1974) (18 C/16), p. 19.

8/ Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, 1 July 1979-30 June 1980 (Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 13 (A/35/13)), p. 13.

9/ Ministry of Defence of Israel, Coordinator of Government Operations in Judaea and Sumaria, Gaza District, Sinai, Golan Heights, A Thirteen-Year Survey (1967-1980), p. 13.

10/ ECWA document, "Social programmes and data in the ECWA region", (Beirut, 1980), p. 9.

11/ Report of the Group of Experts, p. 34.

12/ Percentages calculated on the basis of the figures given in the 1968-1977 Statistical Abstract of the Region of the Economic Commission for Western Asia (Third session, Beirut, 1980).

13/ Najla Nusseir, Report of the General Union of Palestinian Women on Palestinian children under occupation, 1979. (For Zionist settlement of Palestine, land confiscation and the establishment of settlements, see tables 1, 2 and 3 at the end of this section.)

14/ Report of the Group of Experts, p. 36.

15/ Hanna Nasser, message addressed to American universities, 1979.

16/ See ILO, "Action taken on the resolution adopted by the ILO at its fifty-ninth to sixty-fourth sessions", supplement to the report of the Director-General, ILO, sixty-fifth session, 1979.

17/ Israeli Democratic Women's Movement, 1975.

18/ Report of the General Union of Palestinian Teachers to the fifteenth Palestine National Council, held at Damascus in 1981.

19/ Statement by the Israeli representative (Shulamith Kenin) at the World Congress for a Peaceful and Secure Future.

20/ Felicia Langer, My Eyewitness.

21/ Ghattas Abou Atyieh, Status of the Palestinian Child in the Occupied Land (1979), p. 7.

22/ "Palestine Refugees Today", UNRWA Newsletter No. 89, (Vienna, June 1979).

23/ Romesh Chandra, President of the World Peace Organization, New Perspective Magazine, 1979.

Table 1

ZIONIST COLONIZATION OF PALESTINE THROUGH THE IMMIGRATION OF JEWS AND THE EXPULSION OF ARABS* (1895-1967)

Number of inhabitants	1895[a]		1919[b]		1939		1944		1948[c]		1949[d]	
	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%
Total	500 000	100	707 000	100	1 422 955	100	1 739 624	100	2 000 000	100		100
Palestinian Arabs	453 000	91	649 000	92	977 498	70	1 210 922	70	1 400 000	70	156 000	
Jews, including emigrés	47 000	9	58 000	8	445 457	30	528 702	31	600 000	30		
			(322 454)		(23)							
			(1 936)		(305 991)							

* "Give the land without people to the people without land" (Zionist leader Israël Zangwill).

a/ Two years before the creation of the Zionist movement at the first Zionist Congress in 1895 at Basle.

b/ Two years after the proclamation of the Balfour Declaration, whereby the United Kingdom promised to make Palestine the national home of the Jewish people.

c/ Before the outbreak of the 1948 war and the creation of the Zionist entity.

d/ After the creation of the Zionist entity.

Table 2

USURPATION OF LANDS IN PALESTINE BY THE ZIONISTS (1895-1967)

(Areas in dunums - percentages)

	1895		1919		1939		1944		1947		1948		1967
	Dunums	%	Dunums	%	Dunums	%	Dunums	%	Dunums	%	Dunums	%	
Total	26 320 000	100	26 320 000	100	26 320 000	100	26 320 000	100	26 320 000	100	26 320 000	100	All of Palestine is occupied by Israel
Owned by Arabs	26 212 900	99.5	25 670 000	97.5	24 768 600	94.4	24 588 700	93.5	11 457 096	43.5	5 948 320	22.6	
Owned by Jews	107 100	0.5	650 000	2.5	1 533 400	5.6	1 731 300	6.5	14 862 904	56.2	20 371 680	77.4	
Number of Jewish settlements	14		71		231		259		Partition of Palestine by force and war				

Table 3

NUMBER OF ZIONIST SETTLEMENTS ESTABLISHED ANNUALLY DURING THE PERIOD 1895-1980

Year	1895	1919	1939	1944	1947	1948	1949	1967	1973	1974	1975	1976	1977	1978	1979	1979-1983
Number of settlements	14	71	231	259	Partition of Palestine	War		June war	October war	30	30		70	28	...	84[a]

[a] Estimate given in the master plan for expansion of settlements in the West Bank and the Gaza Strip (1979-1983), quoted by the World Zionist Organization, Rural Settlement Service, Jerusalem 1978. This figure represents the establishment of 46 proposed new settlements and completion and expansion of 38 others under construction or already in existence.

Table 4

COMPARISON OF SALARIES DRAWN BY TEACHERS IN ISRAEL AND IN THE WEST BANK ON 1 JANUARY 1981, IN ISRAELI SHEKELS

Qualifications	Years of experience	Gross salary in Israel	Net salary in Israel	Gross salary, West Bank	Net salary, West Bank	Percentage difference between Israeli net salaries and West Bank salaries	Average percentage difference between Israeli salaries and West Bank salaries
B.A.	1	3 382 7	2 549 9	2 120 8	1 839 0	38.6%	
	10	4 826 6	3 301 2	2 370 9	2 000 6	65.0%	57%
	20	5 786 9	3 722 2	2 709 6	2 208 9	68.0%	
Qualified teacher	1	3 061 6	2 341 9	1 787 8	1 604 5	45.9%	
	10	4 429 2	3 102 5	2 087 4	1 813 3	71.1%	64.7%
Graduate of a teacher training school	20	5 349 2	3 547 5	2 370 9	2 000 6	77.3%	

Note: According to Etzione, Israeli salaries were to increase by 60 per cent.

Recommendations: The result would be an increase in the gap between the salaries of Israeli teachers and those of West Bank teachers.

H. RESTORATION OF HUMAN RIGHTS OF THE PALESTINIAN PEOPLE: THE ROLE OF THE UNITED NATIONS AND THE SUPER-POWERS

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The Palestinian people has been in a state of dislocation and dispersion for the last 33 years. Its statelessness has denuded it of human rights, and its subjugation/dependence has deprived it of the commonly accepted standards of civilized being and living. They live in perpetual dehumanizing conditions and are in constant danger for their lives. The fruits of human civilization, social and political progress, as expressed by the world community in the form of the Charter of the United Nations and the Universal Declaration of Human Rights, have failed to reach them.

The world community has reached a consensus on the common standards of acceptable international conduct by using the forum of the United Nations and expects this body to enforce these measures for all peoples of all nations. The super-Powers - the United States and the Soviet Union - as the repositories of the greatest military and economic power, and thereby the wielders of dominant influence in world affairs, continue to play an important role in setting the tone of the outcome of deliberations, debates and discussion of United Nations organs. By and large, it is their power and influence, both within and without the folds of the United Nations that determine the effectiveness of the decisions and resolutions of the various organs of the world body. Their policies of economic and military aid, and diplomatic and political support help or hinder the implementation of consensus of the world community on human rights.

Against the above backdrop, this article is an attempt to describe and analyse the extent of deprivation of the human rights of the Palestinian people and the politics of Israel in this regard. The foregoing objective is intended to be achieved by focusing on:

1. Standards of civilized being as decided upon by the world community in the United Nations Charter and the Universal Declaration of Human Rights, and the efforts of United Nations organs to implement them with regard to the Palestinian people;

2. The role of the super-Powers in providing and/or forestalling the human rights of the Palestinian people, both within and without the United Nations; and

3. Suggested ways and means for the removal of obstructions in the way of the realization of human rights for the Palestinian people.

A. The problem

1. The Palestinian people

The Palestinian people has been in the "diaspora" since the establishment of the State of Israel in 1948. Britain got the Mandate over Palestine from the League of Nations on 24 July 1922.[1] Earlier, on 2 November 1917, through the Balfour Declaration, Britain had promised the Zionists "the establishment of a national homeland for the Jewish people".[2]

Britain, as the Mandatary Power, facilitated large-scale Jewish settlement in Palestine. At the time of the issuing of the Balfour Declaration, the Jewish population in Palestine numbered some 56,000 against an Arab population of 600,0000. At the end of 1946, Palestine contained 1,887,000 people, of whom 625,000 were Jews.[3]

Failing to resolve the conflicting moral-legal claims of the Palestinians and the Zionists, which over time had become political issues as well, Britain turned over the whole Palestine question to the United Nations. The 11-nation United Nations Special Committee on Palestine recommended the partitioning of Palestine into an Arab State, a Jewish State, and an internationalized Jerusalem. The General Assembly adopted the notion of partition on 29 November 1947.[4]

Immediately war ensued between the Palestinians and the Zionists. On 15 May 1948, the proclamation for the establishment of the State of Israel was issued. The involvement of neighbouring Arab States in support of the Palestinian people catapulted the conflict in Palestine between rival nationalism into a contest between the Arab States and Israel.

The outcome of the Arab-Israeli war of 1948 produced far-reaching modifications in the original United Nations partition plan. The Palestinian Arab State envisaged by the plan failed to emerge. The armistice agreements between Jordan and Israel, and between Egypt and Israel, of April 1949 and February 1949, respectively, gave Israel some 2,500 square miles which it formally annexed to the 5,600 square miles allotted to it by the partition plan. Trans-jordan acquired 2,200 square miles which she formally annexed, transforming itself into the State of Jordan. Egypt retained control of the Gaza Strip, some 135 square miles.[5/]

The non-materialization of the Palestinian State produced major reshuffling of Palestine's population. Chased by the Irgun terrorists' over 700,000 Palestinian Arabs fled from their homeland. Lebanon received 80,000, Jordan 400,000, Syria 80,000 and the Gaza Strip 150,000. Some 120,000 remained under Israeli control.[6/] The General Assembly resolution of December 1948 declared the expelled Palestinians as refugees, with a right to return or compensation.

The Middle East war of June 1967 brought about further territorial and demographic changes. Israeli forces captured the Golan Heights, the West Bank, the Gaza Strip and the Sinai Peninsula from the Arabs, placing 1 million Palestinians under the control of the occupying forces. The number of Palestinians living in Arab States crossed the mark of 1 million.

The Zionist expansionism has rendered more than a million Palestinian people homeless. In the West Bank and the Gaza Strip, about a million have been placed under the direct control of Israel.

2. Israel and the occupied territories

The occupying Power of Palestine, Israel, is a parliamentary democracy. It claims to maintain high standards of "justice" and civilized life.

The occupied territories are under military government. Armed forces, rather than civilians, are responsible for law enforcement and public security. The residents of the West Bank and the Gaza Strip are largely subject to military orders, which deny most human rights to the Palestinian people. The Government of Israel has consistently violated the Fourth Geneva Convention of 12 August 1949 pertaining to the protection of civilian population under military rule. Rather, it adamantly maintains that these territories are not within the purview of the said Convention.

The Palestinian people living in the West Bank and the Gaza Strip enjoy very little normal civilian life. Arab newspapers are published under strict censorship. There is no freedom of speech and expression. Municipal elections were permitted in 1972 and 1976, but the one scheduled for spring 1980 was postponed indefinitely. Beyond this, political activity and organization are banned.

The occupying authorities have increasingly applied stringent measured towards the Palestinian people. Israeli interrogators routinely ill treat and often torture Arab "security suspects". Torture is used to extract information as well as to pacify the occupied territories. The purpose appears to be to bring home to the Palestinian people in the occupied territories that it is painful to behave passively.

The Palestinian people in the occupied territories have been subjected to inhuman and degrading treatment or punishment, including deportation. The severity and frequency of such occurrences increased following the death of six Jewish settlers in Hebron on 2 May 1980. Twice severe curfews were imposed in Hebron, causing extreme hardships to the residents. Males in villages and refugees camps have been rounded up and held outdoors for extended periods of time as a form of general punishment of the inhabitants. The mayors of Hebron and Halhoul and the Qadi of Hebron were deported to Lebanon on charges of inciting people to violence.[7/]

Excessive force has been used to quell or disperse protest demonstrations. In November 1980, troops deliberately fixed at the legs of demonstrating youths and wounded 16 boys and girls.[8/]

The Palestinian people have been subjected to administrative detention in gross violation of the Fourth Geneva Convention under which administrative detention is not permissible beyond one year from the "general close of military operations". Though administrative detainees have recourse to appeal, it is rarely exercised, as appeals have never resulted in a reversal of the decisions of the military authorities.

Alleged security offenders are tried by the military courts. Though the accused can engage a counsel for his defence, the convictions are mostly based on confessions obtained through coercion and torture.[9/] No appeal against the military court's verdict is possible.

The military authorities enter private homes and institutions in pursuit of security objectives. During the May-June 1980 crackdown, several breakages, despoliations and beatings took place. Settlers taking advantage of the situation engaged in vandalism and looting. The soldiers plundered the homes during the military search of the village of Silvad in December 1980.[10] In violation of the Fourth Geneva Convention the houses of individuals believed to have been involved in terrorism have been demolished or sealed up, and families displaced. Between July 1967 and August 1971, Israel demolished 16,212 homes and deported 1,130 known "agents of subversion".[11] At least 23 homes were demolished in 1980, and at least 6 other homes were sealed up on security grounds. Near the site of the 2 May 1980 attack, Israeli authorities blew up a number of commercial establishments.[12]

Extremist Israelis frequently indulge in terrorist acts against the Palestinian people. On 2 June 1980, the mayors of Ramallah were maimed by bombs allegedly set for them by Jewish extremists.[13]

Israel has restricted economic development of the occupied territories on both commercial and political grounds. It is keeping the West Bank and the Gaza Strip as captive markets. In contravention of article 49 of the Fourth Geneva Convention, Israel has established more than 100 non-military settlements in the West Bank and the Gaza Strip. Land appropriations for settlements have adversely affected the livelihood of many Arabs, compelling them to quit farming and become day labourers. Palestinian agriculture and livestock have been adversely affected owing to the exploitation of limited water resources in the West Bank by Jewish settlers.

The occupying authorities closed several schools, including Bir Zeit University, for extended periods. In July 1980, the military governor assumed the power to dismiss university students, bar professors and revoke university charters.

The policies and practices of Israel towards the Palestinian people clearly demonstrate the degree to which the provisions of the Fourth Geneva Convention, and mutually agreed upon human rights, are being violated by Israel in the occupied territories.

The background of the problem, the problem of the Palestinian people's human rights and the Israeli violations of human rights of the Palestinian people, having been discussed above, is intended to explain the framework of human rights as well as the efforts made by the world body to enforce the same in respect of the Palestinian people.

B. Human rights and United Nations initiatives in respect of the human rights of the Palestinian people

1. Interpretation of the concept of human rights

The issue of human rights has assumed increasing importance in the past century or so. Slavery has been abolished. Rights of ethnic, linguistic and religious minorities are protected. Acts of barbarity and genocide on the subject people do not go unnoticed, unchallenged and unreprimanded.

The concept of human rights is understood differently by people pursuing different socio-economic goals. In the West, the emphasis is on the political dimension, i.e., the right to vote and hold public office, rights of freedom of speech and assembly, personal protection against arbitrary arrest and imprisonment, and the right to a fair public trial. In the developing countries, the achievement of economic and social rights, such as the meeting of basic human needs for adequate food, clothing and shelter, takes precedence over political rights like sharing in the political process. Communist doctrine does not confer individual rights. Human rights are defined collectively in terms of the needs of the State, which are considered paramount.

Traditionally, national governments have been considered responsible for ensuring proper enjoyment of and protection against any violation of the rights of the people. But the conviction that the violation of human rights is the responsibility of the world community has brought in international organizations to achieve this end. Human rights provisions have been included in the United Nations Charter, which specifically makes mention of the protection of human rights. The Preamble reads:

> "We the people of the United Nations determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small..."

Among the purposes of the establishment of the United Nations, Article 1 includes:

> "To achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion".

And Article 55 emphasizes:

> "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:
>
> "... universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

The United Nations Commission on Human Rights drew up the Universal Declaration of Human Rights, adopted by the General Assembly in 1948.[14] The 30 articles of the Declaration cover the full range of civil, political, economic, social and cultural rights. The General Assembly proclaimed it "common standards of achievement in human rights for all peoples of all nations". It is indubitably an authoritative interpretation of the human rights provisions of the United Nations Charter and is the basis for most of the subsequent United Nations actions in the field of human rights.

2. United Nations initiatives and the human rights of the Palestinian people

Actualization of human rights, as embodied in the United Nations Charter and the Universal Declaration of Human Rights, is the responsibility of the General Assembly, the Security Council, the Economic and Social Council, and their subsidiary bodies. The United Nations organs have taken concrete actions in respect of the human rights of the Palestinian people, which are briefly discussed below.

The human rights of the Palestinian people were spelled out, for the first time, in General Assembly resolution 3236 (XXIX) of 22 November 1974. The resolution is a major reassertion of the fundamental rights of the Palestinian people. It defines, in the operative part, the inalienable rights of the Palestinian people as follows: "... the right to self-determination without external interference; the right to national independence and sovereignty; the... right... to return to their homes and property... the right... to regain its rights by all means... [the right to be represented as] a principal party in the establishment of a just and lasting peace in the Middle East".

An important implication of the General Assembly resolution is that it legitimizes armed struggle, by the Palestinian people, against the occupying Power, to liberate its homeland.

In the following years, the General Assembly repeatedly reaffirmed these inalienable rights of the Palestinian people in its resolutions 3376 (XXX) of 10 November 1975; 31/20 of 24 November 1976; 32/40 of 2 December 1977; 33/28 of 7 December 1948; 34/65 of 19 December 1979; and 35/169 A of 15 December 1980; all under the agenda item "Question of Palestine".

Concrete measures were initiated by the General Assembly at its thirtieth session, in 1975, in the direction of implementation of its resolution in respect of the rights of the Palestinian people. By its resolution 3375 (XXX), the Security Council was requested to take the necessary action to enable the Palestinian people to exercise its rights. By its resolution 3376 (XXX) the Committee on the Exercise of the Inalienable Rights of the Palestinian People was set up and entrusted with the task of formulating a programme of implementation of General Assembly resolution 3236 (XXIX) of 22 November 1974, and thereby enabling the Palestinian people to exercise the rights contained in that resolution. The Committee was specifically established to maintain international concern for progress towards a just solution of the Palestine problem.

The Committee submitted its report to the General Assembly on 21 July 1976, making recommendations on the modalities for the implementation of the exercise of the inalienable rights of the Palestinian people.[15] It proposed a two-stage plan for the return of all the Palestinian people to its homeland. In stage I, Security Council resolution 237 (1967) was to be implemented, The Palestinian people displaced as a result of the 1967 war were to return to Palestine with the assistance of the International Committee of the Red Cross and/or the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Stage II was to be carried out through the implementation of General Assembly resolution 194 (III) pertaining to the rights of the refugees to return and compensation. The Palestine Liberation Organization (PLO), as the interim representative of the new Palestinian entity, as well as other concerned States were to be associated with this operation. The following guidelines were laid down by the Committee for the establishment of an independent Palestinian entity:

1. The Security Council should establish a timetable for the complete withdrawal of Israel from the territories occupied in the 1967 war;

2. The Security Council should provide temporary peace-keeping forces to facilitate the process of Israeli withdrawals;

3. The United Nations should take over all evacuated territories to be handed over the PLO, as the interim representative of the Palestinian people;

4. Upon the establishment of an independent Palestinian entity, the United Nations, in cooperation with the States involved and the Palestinian people, should make necessary arrangements for the full implementation of the inalienable rights of the Palestinian people,the resolution of outstanding problems and the establishment of a just and lasting peace in the region.

Pursuant to General Assembly resolution 3375 (XXX), the Security Council in 1976 debated the issue of political rights for the Palestinian people. The draft resolution introduced by six non-aligned countries expressly affirmed the inalienable rights of the Palestinian people, as proclaimed by the General Assembly. It stated that, for a just and lasting peace, Israel should withdraw "from all the Arab territories occupied since June 1967".[16] The Security Council failed to adopt it because of the United States veto. Under the agenda item "The question of the exercise by the Palestinian people of its inalienable rights", the Security Council again discussed the issue of Palestinian rights in June 1976,[17] and October 1977,[18], but again the draft resolutions were killed because of the United States' negative veto.

In view of the importance of self-determination as a basic human right and as the prerequisite for the exercise of all other human rights, the Commission on Human Rights adopted two resolutions in 1978. The Commission, in its resolution 2 (XXXIV) of 14 February 1978, entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" affirmed "the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine". It further affirmed its right to return to its homes from which it had been uprooted and displaced. It called for a return of all Palestinian refugees as a component of its right to self-determination and recognized its right to regain its rights by all means in accordance with the purposes and principles of the Charter.[19] In resolution 3 (XXXIV) of 14 February 1978, under the same title, the Commission reaffirmed the inalienable rights of the Palestinian people to self-determination, national independence, territorial integrity, national unity, and sovereignty without external interference.[20]

In December 1978, the General Assembly, in its resolution 33/29, called for a comprehensive settlement of the Middle East problem in which the Palestinian people attained all its inalienable national rights. It declared that peace must be based on Israel's "withdrawal from all the occupied Palestinian and other Arab territories".[21] In resolution 33/28 of 7 December 1978, the General Assembly asked the Committee on the Exercise of the Inalienable Rights of the Palestinian People to keep the situation under review; urged the Security Council to take a decision on the Committee's recommendations; and asked the Secretary-General to ensure that the Special Unit on Palestinian Rights continue to discharge the tasks assigned to it by General Assembly resolution 33/28. It emphasized the need for "full attainment and exercise of the inalienable rights of the Palestinian people, including the right to return and the right to national independence and sovereignty in Palestine, and with the participation of the Palestine Liberation Organization".[22]

At the request of the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, the Security Council met on 30 April 1980, to consider the question of continuing violation by Israel of the inalienable rights of the Palestinian people as well as the recommendations of the Committee endorsed by the General Assembly. However, the draft resolution introduced by Tunisia reaffirming the rights of the Palestinian people to exercise its inalienable right of self-determination, including the right to establish an independent State in Palestine, the right to return home, could not be adopted because of the United States veto.[23]

The General Assembly, in its resolution 35/169 A of 15 December 1980, deplored that the Palestine problem was still unresolved. It reaffirmed that the goal of attainment of just and lasting peace in the Middle East could not be realized without ensuring the inalienable rights of return and the right of self-determination, national independence and sovereignty in Palestine for the Palestinian people.[24]

The United Nations has been concerned with the socio-economic and cultural rights of the Palestinian people. The Secretary-General's report of October 1977[25] led to the adoption of General Assembly resolution 32/161 of 19 December 1977, specifying the following economic rights of the Palestinian people:[26]

> "... the right of the Arab States and peoples whose territories are under Israeli occupation to full and effective permanent sovereignty and control over their natural and all other resources...
> "... the right of the Arab States and peoples ... to the restitution ... and full compensation for the exploitation, depletion and loss and damages to, their natural, human and all other resources ...".

The General Assembly has criticized and condemned the Israeli policy of establishing settlements in the occupied territory which has worse economic and social consequences for the Palestinian people. It set up a Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories by its resolution 2443 (XXIII) of 19 December 1968. The annual reports of the Committee provide a wealth of information on Israeli breaches of the Fourth Geneva Convention of 12 August 1949.

This discussion of the United Nations role in the restoration of the right of the Palestinian people clearly brings out the following two points.

First, the world community has not remained indifferent to the plight of the Palestinian people living in the occupied territories. It is now almost a decade that the concern has been expressed in clear terms for the restoration of the inalienable rights of the Palestinian people through the resolutions adopted by the General Assembly every year;

Secondly, the record of the two main organs of the United Nations - the General Assembly and the Security Council - with respect to the restoration of the right of the Palestinian people should be of special interest to the students of international organizations as well as cause for concern to those who are interested in a just and lasting peace in the Middle East. While the representative body of all peoples of all nations - the United Nations General Assembly - has supported the cause of the uprooted and oppressed Palestinian people, the Security Council, the preservative of big Power interests, has failed to translate the General Assembly concern for the lamentable plight of the Palestinian people into some meaningful action.

From the foregoing discussion, it would be evident that though many measures have been initiated by the United Nations to implement the provisions of its Charter in respect of human rights and of the Universal Declaration of Human Rights in the case of the Palestinian people, nothing has come about so far. The resolutions of the General Assembly and of the Commission on Human Rights have turned out to be nothing more than nice documents wanting implementation.

In the next section it is intended to shift the focus of this discussion to the role of super-Powers on the question of human rights for the Palestinian people.

C. Super-Powers and the human rights of the Palestinian people

Factually speaking, both the United States and the Soviet Union cast their votes in the General Assembly in November 1947 for the creation of the Zionist State in Palestine. They conferred recognition of statehood on it in the immediate aftermath of the issuing of the proclamation of its establishment on 15 May 1948.

The creation of the State of Israel in Palestine rendered thousands of Palestinian people homeless. Although the Palestinian problem was there since 1948, the super-Powers, by and large, did not show much concern for the plight of these displaced persons till the morrow of the Arab-Israel war of June 1967. Apparently, they were content with the refugee status of the Palestinian people till the issuing of the National Charter by the PLO in July 1968, and the Jordanian crisis of September 1970. They regarded them mainly a United Nations responsibility, with a right to choose between return or compensation.

The shock of the events of 1967 politicized the Palestinian problem and converted the Palestinians from refugees to a people with national rights. Hijackings and attacks on persons and places brought them in sharp focus of world attention, including that of the super-Powers.

1. The United States

The United States feels a strong moral and political commitment to the survival and political independence of Israel. Israel's security and well-being are a top priority concern for policy-makers in the United States. The United States policy toward the restoration and realization of the human rights of the Palestinian people has been mostly guided and dictated by its commitments to Israel.

The United States has so far refused to recognize the PLO, the spearhead of the Palestinian people's struggle to liberate Palestine and establish its independent sovereign State. Henry Kissinger, the Secretary of State of the United States, capitulated on the issue of Palestinian participation in the Geneva Peace Conference in December 1973 when Israel refused to go to Geneva if the Palestinians were present.

The United States-Israel pact at Geneva, initialled at the time of the signing of Sinai II by Egypt and Israel, bound Washington to continue to adhere to a policy whereby it would not recognize or negotiation with the PLO,[27] and promised Israel the right to veto the participation of the PLO in any future peace conference in Geneva. In the United States-Israeli Memorandum of Agreement, it was agreed that the United States would prevent efforts by others to bring about consideration of proposals detrimental to the interests of Israel.[28]

These commitments by the United States have led to Washington's unqualified diplomatic and political support to Israel on all issues including the question of human rights of the Palestinian people. This has been both inside and outside the United Nations. The United States has cast mostly negative votes on draft resolutions introduced in the General Assembly opposed by Israel. In the Security Council, the United States has consistently vetoed almost all draft resolutions impinging upon Israel.

The United States cast a negative vote in the Security Council and killed the draft resolution pertaining to the rights of the Palestinian people introduced by six non-aligned countries in January 1976.[29] The draft resolution contained provisions affirming the inalienable rights of the Palestinian people. It demanded Israeli withdrawal from the Arab territories as a prerequisite of a just and lasting peace in the Middle East. This performance was repeated by the United States in June 1976 and October 1977 when the issue of Palestinian rights under the agenda item "The question of the exercise by the Palestinian people of its inalienable rights" came for discussion before the Security Council.[30]

A draft resolution, pertaining to the rights of the Palestinian people, introduced by Tunisia in the Security Council, was vetoed by the United States on 30 April 1980. The draft resolution had demanded an affirmation from the Council of the inalienable rights of the Palestinian people and the establishment of an independent sovereign State of Palestine.[31]

The United States has made huge inputs of economic and military aid to Israel[32] (as is clear from the table below). This has made Israel intransigent and obdurate. The American policy-makers say that the aid is aimed at making Israel flexible in its policies through strengthening its security and economy. But in actual fact, the more strong militarily and economically the Israelis become, the more obstinacy, intransigence and obduracy they exhibit in their policies towards the Palestine question.

The receipt of most advanced weapon systems from the United States has given the Israelis a feeling that they can sit tight, perpetuate occupation and thereby continue trampling the rights of the Palestinian people of the West Bank and Gaza Strip with impunity. They have developed an aura of conquerors about themselves. The United States has made Israeli defence virtually impregnable and offence uninterceptable through a supply of most advanced weapons in its arsenal and by creating a strategic weakness in the Arab front through the withdrawal of Egypt as a result of the signing of the Egypt-Israel peace treaty of March 1979.

Thus, by and large, the United States policies towards the Middle East and its problems are an obstruction to the materialization of the rights of the Palestinian people. The United States has criticized Israel's settlement policy in the occupied territories as immoral and illegal. It has objected to the annexation of Jerusalem, occasionally blamed Israel for ill-treatment of the residents of the occupied territories, but the impact of its overall policies has been detrimental to the restoration of the rights of the Palestinian people.

In analysing the role of the successive administrations in Washington towards the rights of the Palestinian people, one wonders why a country whose internal policies on human rights are so praiseworthy has not reflected the same in the case of the Palestinian people. Apparently, one plausible interpretation of this is the United States Government's total commitment to ensure the continued existence of Israel under political pressure produced within the country.

2. The Soviet Union

From the spring of 1968, the Soviet mass media and the Government increased their interest in the Palestinian people and the PLO. Contacts were maintained with the PLO through Egypt. In the aftermath of the June 1967 war, the Soviet Union became sympathetic to the liberation struggle of the Palestinian people. Yasser Arafat, the Chairman of the PLO, paid his first visit to Moscow in 1972.

The Soviet Union, in the post-October 1973 Arab-Israeli war period, began to insist that any political solution to the Arab-Israeli conflict must include the fulfilment of the "national legitimate rights of the Palestinian people". It implied that after the Israeli withdrawal, a Palestinian sovereign entity should be established in the West Bank and in the Gaza Strip.

Moscow increasingly sought to prove the indispensability of the PLO in any Arab-Israeli settlement. At the same time, the Soviet Union tried to augment the political strength and significance of the PLO.

In a joint communiqué, on 15 November 1973, the Soviet Union and Yugoslavia endorsed the Palestinian people's demand for a national entity.[33] And in June 1974, Soviet sources stated clearly that "the national legitimate rights of the Palestinians" which Moscow supported meant an independent State.[34]

The Soviet Union, with a view to facilitating Palestinian participation at Geneva, demanded a new interpretation of Security Council resolution 242 (1967). They wanted to make it acceptable to the Palestinian people. An article in

Izvestia said, for example, that the Geneva Peace Conference would convene with the participation of the PLO only on condition that the Palestinian question be defined "as a political question, as a question of security, the lawful national rights of the Arab people of Palestine and is not confined to the refugee problem".[35]

Arafat, during his November 1974 visit to Moscow, officially met Prime Minister Alexei Kosygin. *Tass* announcement of the meeting between Kosygin and Arafat was worded as if this were the meeting between two heads of government.[36] The joint communiqué issued at the end of the visit pledged the Soviet Union's continued support for "the struggle of the Arab people of Palestine, for their legitimate rights, including their inalienable rights to self-determination and the creation of their own national home up to the formation of their statehood".[37]

The Soviet Union has consistently cast positive votes on all draft resolutions affirming the inalienable rights of the Palestinian people, before the General Assembly or the Security Council. It has been very critical of the United States negative votes in the General Assembly and Washington's use of veto on draft resolutions before the Security Council demanding the materialization of the inalienable rights of the Palestinian people, including the right to establish an independent sovereign State.

A question may be asked here whether the Soviet Union's stand on the issue of human rights for the Palestinian people is based on a genuine concern for the Palestinians or on political expediency with an eye on the future in respect of the Middle East region. Probably both considerations are there. Undoubtedly the Soviet Union's efforts to champion the cause of the Palestinians at various forums is noteworthy. However, the motives underlying this are not very clear particularly when one looks into its own internal record on human rights. Thus, one may be forced to conclude that the Soviet position on the question is not entirely free from political overtones.

This discussion of super-Powers' role in respect of the restoration of the rights of the Palestinian people may be concluded with the note that nothing substantial can be expected out of the super-Powers' activities. This leads to the logical question, that is, what should be done to redeem the situation? The next section of the present article is devoted to answering this question by advancing a few suggestions.

D. Suggestions for a future course of action

Despite the General Assembly's repeated annual declarations that the Palestinian people have national rights, such as the right to self-determination leading to the establishment of a sovereign political entity, nothing has come about so far. The main factor has been the Security Council's inability to act. The General Assembly's formal resolutions could not be converted into a plan of action for the restoration of the rights of the Palestinian people because of the unqualified support that comes from the United States for Israel. Consequently, the General Assembly call to the Security Council to apply sanctions against Israel has not found unanimously accepting ears in Security Council circles.

What can be done under these circumstances to materialize the human rights of the Palestinian people? The following suggestions may be worth pondering in this regard:

1. The PLO, as the coordinating and integrating force for the various groups and opinions within the Palestinian people, should act to galvanize all possible support that can accrue to it so as to strengthen itself to achieve the goal for which it has been established. A two-pronged action is likely to help achieve this goal. On the one hand, at the organizational level, it should pay greater attention to internal cohesion and unity. Common bonds of identity - background, ethnicity, socio-economic, geographic, cultural, etc. - and destiny - the creation of a sovereign independent Palestinian State among the Palestinian people should be emphasized and propagated. Differences - organization and purposive - in the ranks of the Palestinian people should be amicably settled because internal dissension and absence of unity in thought and organization are likely to hamper all plans of goal attainment. Unity and cohesion will help generate an indigenous force that will have to be reckoned with by all related to this problem. On the other hand, efforts should be directed to tap all sources of strength - political, diplomatic, economic and military - at the regional as well as international levels. Proper propagation will build image and enhance the prestige of the PLO as the sole representative body of the Palestinian people and augment its power to influence the decisions of international actors involved in the question of Palestine.

2. Greater attention should be paid and utilization be made of the alternative forums, for example, the Non-Aligned Movement and the Organization of the Islamic Conference (OIC). They constitute a majority in the global political structure; the former has 94 members and the latter's strength stands at 42 States.

Moreover, most of the members of these organizations have experienced in the past the problem of deprivation of human rights; therefore, full cooperation and solid support can be expected of them. They have already taken up the cause of the Palestinian people and pressure on the super-Powers from the above-mentioned countries will hopefully lead to new initiatives that may force Israel to submit to the legitimate desires of the world body. An equally useful weapon may be bringing economic pressure on Israel from the super-Powers.

3. The United States should be made to realize that its policy of partial settlement in the Middle East has reached a cul de sac and that it has not helped in achieving the goal of a just and lasting peace in the Middle East. Therefore, it must use its economic and military leverage with Israel to achieve a comprehensive settlement that takes into account all problems and all parties to the conflict.

4. The PLO should try to make fuller use of the American media to inform the American people how a persecuted people, the Jews, have become persecutors themselves and that the successive American Administrations are largely responsible for this. It should emphasized to them that the ideals of human dignity and honour that they preach and practice within America should be made available to the homeless Palestinian people.

It is expected that these steps will help arouse the moral sense of the American people to neutralize the pressure of the Jewish lobby on the policy-makers in Washington.

A situation in which the super-Powers begin to look at the question of Palestine without coloured glasses and adopt a policy posture on the basis of the merits of the case, both within and without the United Nations, will help materialize the human rights of the Palestinian people. Predictably an intense awareness about the magnitude of the problems and the potential dangers which permeate the region may produce pressure on administrations in the United States and the Soviet Union to seek a total settlement of the problem whereby a Palestinian people will be established.

Conclusion

The problem of Palestine has been festering for the last 33 years and the Palestinian people are languishing for its human rights.

Israel continues to follow a course wherein the Palestinian people suffer a deprivation of its human rights. American military and economic aid has encouraged Israel in the pursuit of this policy and has made it adamant to the extent of flouting world opinion.

The United Nations has failed as a world body to implement its resolutions that would lead to resolving the issue of the Palestinian people. Its efforts at redeeming the Palestinian people's situation has hardly borne any fruits because of the American Administration's attitude. Nor has the Soviet policy of coolness to active espousal of the Palestinian people's cause done any good to the Palestinian people.

Since much cannot be expected from the United Nations or from the super-Powers, it is advisable to make rigorous use of other forums of opinion, persuasion and pressure. In this regard, the Non-Aligned Movement and the OIC platforms may prove to be very effective to bring home to Israel and the super-Powers the need to act immediately to restore the rights of the Palestinian people.

Notes

1/ For text of the British Mandate over Palestine, see J. C. Hurewitz (ed.), Diplomacy in the Near and Middle East: A Documentary Record 1914-1956, (New York, D. Van Nostrand, 1956), pp. 106-111.

2/ Ibid., pp. 25-26.

3/ Harry B. Ellis, The Dilemma of Israel (Washington, D.C., American Enterprise Institute for Public Policy Research, 1973), p. 7.

4/ For the text of the United Nations General Assembly resolution on the partition of Palestine, see J. C. Hurewitz, op.cit., pp. 281-295.

5/ Nadav Safran, From War to War: The Arab-Israeli Confrontation 1948-1967 (New York, Bobbs-Merrill, 1969), p. 33.

6/ Harry B. Ellis, *op.cit.*, p. 7.

7/ *UN Chronicle*, July 1980, p. 6.

8/ United States Department of State, *Country Reports on Human Rights* (Washington D.C., Government Printing Office, 1981), p. 1002.

9/ *The Sunday Times* Insight Team, *Israel and Torture* (Washington, D.C., Free Palestine Press, 1977), pp. 19-20.

10/ *Country Reports on Human Rights*, p. 1005.

11/ *Israel and Torture*, p. 18.

12/ *Country Report on Human Rights*, p. 1005.

13/ *Ibid.*, p. 1006.

14/ General Assembly resolution 217 A (III).

15/ *Official Records of the General Assembly*, *Thirty-first Session*, *Supplement No. 35* (A/31/35).

16/ For text of the draft resolution, see United Nations document S/11940.

17/ United Nations document S/12119 of 29 June 1976.

18/ United Nations document S/PV.2040 of 27 October 1977.

19/ See *Official Records of the Economic and Social Council*, *Supplement No. 4* (E/1978/34), pp. 104-105.

20/ *Ibid.*, p. 106.

21/ *UN Chronicle*, February 1979, p. 30.

22/ *Ibid.*, p. 33.

23/ *Ibid.*, June 1980, p. 19.

24/ *Ibid.*, January 1981, p. 10.

25/ United Nations document A/32/204 of 14 October 1977.

26/ Previous General Assembly resolutions on the subject are: 31/186 of 21 December 1976; 3516 (XXX) of 15 December 1975; and 3336 (XXIX) of 17 December 1974.

27/ For text of United States-Israel Pact of Geneva, see *The New York Times*, 18 September 1975.

28/ For text of Memoranda of Agreement, see *The Washington Post*, 16 September 1975.

29/ For text of the draft resolution, see United Nations document S/11940.

30/ For text of the draft resolution, see United Nations document S/12119.

31/ For text of the draft resolution, see United Nations document S/13911.

32/ The table below gives details of official economic and military aid to Israel over the past three years.

33/ *Foreign Broadcast Information Service* (hereinafter FBIS), 16 November 1973.

34/ *FBIS*, 5 June 1974.

35/ Quoted by Baruch Gurewitz, "The Soviet Union and the Palestinian Organizations" in Yaacov Ro'i, ed., *The Limits to Power: Soviet Policy in the Middle East*, (London, Biddles Ltd., 1979), p. 262.

36/ *FBIS*, 29 November 1974.

37/ *FBIS*, 9 December 1974.

TABLE

UNITED STATES LOANS AND GRANTS TO ISRAEL
(in millions of dollars per fiscal year)

	1978	1979	1980
I. Economic assistance - Total	791.8	790.1	786.0
Loans	266.8	265.1	261.0
Grants	525.0	525.0	525.0
A. Aid	785.0	785.0	785.0
Loans	260.0	260.0	260.0
Grants	525.0	525.0	525.0
(Sec. Supp. Assist.)	785.0	785.0	785.0
B. Food for Peace	6.8	5.1	1.0
Loans	6.8	5.1	1.0
Grants	0.0	0.0	0.0
Title I - Total	6.8	5.1	1.0
Repay. in S-Loans	6.8	5.1	1.0
Pay. in foreign currency	0.0	0.0	0.0
Title II - Total	0.0	0.0	0.0
E. Relief Ec. Dev. & Wfp.	0.0	0.0	0.0
Vol. Relief Agency	0.0	0.0	0.0
C. Other Economic Assistance	0.0	0.0	0.0
Loans	0.0	0.0	0.0
Grants	0.0	0.0	0.0
Contr. to IFI	0.0	0.0	0.0
Peace Corps	0.0	0.0	0.0
Others	0.0	0.0	0.0
II. Mil. Asst. - Total	1000.0	4000.0	1000.0
Loans	500.0	2700.0	500.0
Grants	500.0	1300.0	500.0
A. Map grants	0.0	0.0	0.0
B. Credit sales - FMS	500.0	2700.0	500.0
C. Intl. Mil. Ec. Trng.	0.0	0.0	0.0
D. Tran-Excess Stock	0.0	0.0	0.0
E. Other Grants	500.0	1300.0	500.0
III. Total Economic and Military	1791.8	4790.1	1786.0
Loans	766.8	2965.1	761.0
Grants	1025.0	1825.0	1025.0
Other United States loans	5.4	68.7	301.4
Export-Import Bank Loans	5.4	68.7	301.4
All others	0.0	0.0	0.0

Source: United States Department of State, Country Reports on Human Rights, 1980.

The table does not include huge sums that are collected in the United States through tax-free 'charity' and other contributions to funds for Israel and the proceeds from the sale of Israeli bonds in America.

IV. FOURTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE

(31 August-4 September 1981,
Havana, Cuba)

A. RETRIEVING PALESTINIAN NATIONAL RIGHTS

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It is now recognized that the question of Palestine constitutes the core of the conflict in the Middle East. Its successful resolution presumably will lead to an enduring peace. The core of the question of Palestine is the fundamental right of the Palestinian people to self-determination; the violation of that right first by Great Britain when it set in motion its colonial occupation of Palestine in 1919 and second by Israel when it was established in 1948 is what produced the ongoing conflict in Palestine between Palestinian Arabs and Israelis. While this much is known, there is considerable ambiguity, sometimes deliberately fostered, about the precise meaning and implication of this right of self-determination. Furthermore, even when there seems to be a consensus over the precise meaning and implication of what is meant by the Palestinian right to self-determination, there is a question concerning the process by which this right is to be brought about.

Our task in this essay therefore is to clarify the Palestinian understanding of the right of self-determination and the process by which it will be realized.

From the onset of the conflict over Palestine, three distinct views concerning the population of Palestine could be discerned. The Zionist view, expressed abundantly in Zionist literature throughout history, has been that either Palestine was an uninhabited place or when it was inhabited, its population was largely a nomadic population that lacked the basic qualities that would qualify it for real political existence. And when they were extremely generous, the Zionists admitted that the largely nomadic and backward population of Palestine were Arabs who had migrated to Palestine from neighbouring countries and thus had no right to it. The intent of this argument was to make it possible for European supporters to view the Zionist ambition of establishing a Jewish State as both a positive act and beneficial to the population in question.

The cumulative impact of the Zionist argumentation of the late nineteenth and early twentieth centuries led the British Government, which developed a strategy for the control of the Arab world, to denude the Palestinians of their national and territorial identity. Thus, when the Balfour Declaration of 2 November 1917 was issued, pledging the British Government to support the Zionist effort to transform Palestine into an eventual Jewish State, the Declaration did not see fit to refer to the Palestinian population as a national community. It neither referred to them as Arabs nor as Palestinians. It merely referred to the "existing non-Jewish population of Palestine". In other words, the more than 700,000 people of Palestine who constituted then more than 99 per cent of the population were denuded of any national or territorial identity. Throughout the Mandate period, the British administration continued to refer to the population in terms of their "confessional" affiliation: thus, Palestine was inhabited by Moslems, Christians and Jews. Only rarely did the British refer to Arabs and certainly not to Palestinians. Subsequent to the establishment of Israel, this policy of denuding the Palestinians of their national, cultural and territorial identity continued unabated: thus, Israel today classifies its population in terms of their "confessional" affiliation and refers to Jews, Christians, and Moslems or to Jews and non-Jews.

The Palestinian areas that came under Israel's occupation in 1967 have experienced a similar fate in terms of their loss of national and cultural identity. Israel neither refers to the territories as Palestine nor as Palestinian areas but identifies them as Judea and Samaria. Furthermore, it refers to the population either as the "residents" of the administered territories or simply as Arabs. The intent of the designation is clear: on the one hand, Israel views the Palestinian citizens of these areas as "residents" who thus do not possess the right of citizenship and ownership of the land and, on the other hand, it views them as culturally affiliated with a broad national community and not possessing a specific national and territorial identity of their own that could be the basis for an independent political existence.

Confronted with this consistent denial of their specific national territorial identity, the Palestinians have historically and politically responded with a very specific territorial and cultural assertion. In making their presentation to the British Government in 1922, the Palestine leadership maintained the right of the Palestinian Arab people essentially on two grounds: one is that the Palestinians are the rightful possessors of their land, which they have lived on since time immemorial. As such, they contended that there is a specific Palestinian population whose territorial identity is derived from their continuing inhabitation of the soil of Palestine. In terms of their cultural and national identity, the Palestine leadership maintained that that identity was finally shaped in the wake of the cultural, religious and national transformation of Palestine in the seventh century. Thus, their Arab identity based as it is on the language and culture of the Arab national community can easily be dated to that transformation. But within that cultural and national identification, there has always been a specific territorial dimension that produced the specific Palestine Arab identity.

In terms of religious identification, the Palestine leadership maintained that the Palestine Arab population has always contained the three religious groups - Moslems, Christians and Jews - who are indigenous to the land.

In a very important sense, the Palestinians have always been conscious of their specifically Palestinian Arab identity that has produced a distinct cultural manifestation that expressed itself in arts, crafts, literature, economy and politics. And it is that distinct political consciousness that impelled Palestinians to participate in the politics of the Ottoman Empire in the late nineteenth century, long before the confrontation with either zionism or British imperialism accentuated the political drive of the Palestinians for independence.

The conclusion is obvious and inescapable: the contemporary Palestinian drive for independence, which is one aspect of the Palestinian right to self-determination, is premised upon a long-standing consciousness of a distinct territorial and national identity of which Palestinians have been conscious historically. While some may argue that the right of the Palestinians today to national independence is justified on the basis of a contemporary consciousness of identity that developed in response to Israel's occupation of their lands, a more accurate and reasonable reading of Palestinian history and the presentation of the Palestine case historically reveal beyond any doubt that the Palestinian consciousness of their identity was an important component of their ideology in the struggle against British colonialism and the Zionist movement.

We can at this juncture conclude that one of the most basic rights of the Palestinian people that is to be included in our interpretation of the Palestinian right to self-determination is the right to national identity. Understood in this manner, the retrieval of Palestinian national identity not only becomes an important component of the struggle of the Palestinian people to self-determination but further entails the unconditional termination of the contemporary political, physical, geographic and cultural fragmentation which has characterized the Palestinians since the establishment of Israel on Palestinian soil.

The second dimension of the Palestinian right to self-determination is their right to national independence. The Palestinians have asserted that right first as a component of the Arab national community when the latter engaged in a struggle against the Ottoman system to obtain national independence for the entire Arab Provinces of the Empire, including Palestine. As part and parcel of that struggle, the Palestinians campaigned for greater participation in the Ottoman system, including their right to be represented in the Ottoman Parliament. It should be recalled that Palestine as such obtained the right to send representatives to the Ottoman Parliament beginning in 1876. Whenever the Parliament was convened, Palestine was more or less adequately represented by its own delegates. In the wake of the Young Turkish Revolution of 1908 and the subsequent attempt of the Young Turks to Turkify the population and to increase the power of the central government, the Arab national movement clashed with the Turkish nationalist drive, a clash that ultimately impelled the Arab nationalist movement to seek total national independence for the Arab provinces. Thus, when the Arab Revolt against the Ottoman Government was declared in 1915, its purpose was clear: national independence for all the Arab provinces. Not only did the national leadership include significant Palestinian figures but the Palestinian masses rallied to the call of the leadership and actively took part in the Arab Revolt. It was in the course of that Revolt that a number of leaders were apprehended by the Turkish military governor, Jamal Pasha, and eventually were put to death. A number of such leaders were drawn from Palestinian ranks.

Not only was the British Government aware of the assertions of the Arab leadership but they were fully aware that Palestine was included in that Arab assertion. When the Mandates were imposed on the Arab provinces, the British Government was violating its pledges to the Arab leadership which it had made during the course of the First World War. More than this, the British had already formulated a policy with specific reference to Palestine which was fully intended to deprive the Palestinians of their right to self-determination, including their right to independence. Two points are worth recalling. The first point is that the British, in part because of their commitment to the Zionists to transform Palestine into a Jewish national home, were fully conscious of the necessity of depriving the Palestinians of their right to self-determination. Lord Balfour, the author of the notorious Balfour Declaration, made that intent crystally clear in a statement that is now part of the public record of the Palestine question; he stated "For in Palestine we do not propose even to go through the form of consulting the wishes of the present inhabitants of the country ... (note the denuding of the national identity of the Palestinians). The four great Powers are committed to zionism and zionism, be it right or wrong, good or bad, is rooted in age-long tradition, in present needs, in future hopes of far profounder import that the desires and prejudices of the 700,000 Arabs who inhabit that ancient land". Without question that statement became the cornerstone of subsequent British policy in Palestine. The second point relates to the question of Palestinian independence.

The British had entered into agreements with the Arab leadership which facilitated the wartime alliance between the two parties. The Agreements, known to posterity as the Hussein MacMahon Correspondence, pledged Arab support to the Allied effort in the Middle East in return for British support of Arab independence subsequent to the defeat of Turkey. The British, of course, had other intentions but were compelled as a result of the Agreements to grant the legitimacy of the Arab claims, with two important modifications. The first modification came in the form of the Mandate system, which essentially accepted the right of the national population to independence but postponed its application for a period of time. Thus, when the Mandate system was imposed, each territory that came under it was declared to be "provisionally independent". That provisional independence was acknowledged in the Mandate of Palestine. While in theory and law, Palestine was declared to be a State "provisionally independent", the actual intentions of the British were in conflict with that declaration. As the contradiction between the reality and theory became more clear, the British became more honest in stating and pursuing their intentions. It was the Duke of Devonshire, the Under-Secretary of the colonies in 1922, who gave full expression to the British intent to deprive the Palestinians of their right to independence when he stated "What we promised was to promote Arab independence throughout a wide area. That promise we have substantially fulfilled ... The Arabs as a whole have acquired a freedom undreamed of before the war. Considering what they owe to us, they may surely let us have our way in one small area (Palestine), which we do not admit to be covered by our pledges, and which in any case, for historical and other reasons, stands on a wholly different footing from the rest of the Arab countries ...".

Irrespective of the veracity of Devonshire's statement, the British intention was made abundantly clear: Palestine was not construed by them to fall within the purview of the projected independence of the Arab countries and thus the Palestinians had no right to national independence. Subsequent British policy in Palestine, regardless of its many ambiguities, was clear on that point.

From the standpoint of the Palestinian people, it is clear that its assertion of the right to national independence is premised on the existence of a distinct territorial national political community that participated in the political process of the Ottoman system and that eventually sought political independence from the Ottoman system. Its search for political independence led to it to struggle militarily against the Turks and subsequently to confront the colonial occupation of Palestine by Britain. The latter's denial of that right of national independence led to the perennial confrontation between the Palestinian community and the British administration.

The third dimension of the Palestinian right to self-determination entails the right to representation. Historically, the Palestinians took for granted their right to send their own representatives to the Ottoman Parliament. The Ottoman system of representation acknowledged that right as well. Thus, when the Palestinians asserted their right to national independence, they similarly asserted their right to be governed by their own officials. When the British administration was forcefully imposed, not only was the Palestinian right to independence denied, but equally their right to be governed by their own officials was violated. At no point in the historical evolution of Palestine since the imposition of the Mandate were the Palestinians permitted to elect their own national representatives. The first test of this principle came about quite early in the British/Palestinian encounter. Subsequent to the Palestinian uprising of 1921, which incidentally was not unanticipated by the British occupation authorities, a Palestinian delegation representing the Palestinian national community was dispatched to London for the purpose of negotiating with Britain the disposition of Palestine. That delegation, led by the then universally acknowledged leader of Palestine, Musa Kazim al-Hussaini, presented the Palestinian demands to the Secretary of the Colonies, none other than Mr. Winston Churchill. The demands, among others, called for two very specific points: first, the annulment of the Balfour Declaration which was issued unilaterally by the British Government and, second, immediate national independence for Palestine. It became quite clear in the process of discussions that the British Government was not prepared to accept either request and quite rapidly the negotiations broke down. It is important to point out that the Palestinian demands expressed by the Palestine Arab delegation represented the Palestinian national consensus of the time, a consensus that was in conflict with the British-Zionist consensus of the time. But what is perhaps equally significant is the way in which Britain rejected Palestinian demands. Then, as now, it was more important for the colonial administration, like the Government of the United States today, to deny the legitimacy of the representative character of the Palestinian leadership than the legitimacy of the political programme espoused by the Palestinian leadership. In responding to the demands of the Palestinian leadership, Mr. Churchill, in a long statement addressed to the delegation (which incidentally he refused to meet just as the various American administrations have consistently refused to meet with the Palestinian leadership of today) expressed his views in the following fashion:

> "I am to point out in the first place that, while your Delegation is recognized by Mr. Churchill as representing a large section of the Moslem and Christian inhabitants of Palestine, and while the Secretary of State is anxious to discuss his present proposals informally with recognized representatives, such as yourselves, of an important section of the community, he is not in a position to negotiate officially with you or with any other body which claims to represent the whole or part of the people of Palestine, since no official machinery for representation has as yet been constituted. It is with the object of providing the people of Palestine with a constitutional channel for the expression of their opinions and wishes that the draft constitution has been framed."

In a very important way, that statement became the third pivot of British policy towards the Palestine Arabs. At no point during the Mandate period was the Palestine leadership acknowledged as the legitimate leadership of the Palestinian people. Then as now the argument is static: in the absence of "elections" which can neither be held nor be allowed by an occupying Power, the leadership cannot be acknowledged as the "representative" of the people in question. Yet as in all situations which pits a colonized people against the colonizer, the colonizer ultimately fails in its effort to detract from the legitimacy of the national leadership. This was the case of the Palestine leadership. During the Mandate period, the Palestinians acknowledged the leadership of the Arab Higher Committee and after the occupation and dispersion of 1948, the Palestinians rallied to the Palestine Liberation Organization (PLO) and acknowledged its legitimacy. Today, an important component of the Palestinian national consensus is that the PLO is the sole, legitimate representative of the Palestinian people and is the only authority that is competent to negotiate on their behalf nationally, regionally and internationally.

As a consequence of this Palestinian consensus, today all the Arab States and practically all countries of the third world and the socialist system acknowledge the representative character of the PLO. Even Powers that are outside this broad international consensus grudgingly accept the representative character of the PLO. The United States, which has assumed the role of a principal protagonist of Palestinian aspirations and the PLO, occasionally acknowledges that the PLO represents a "substantial proportion of the Palestinian people". Yet despite this kind of modified acknowledgement the historical Powers that bear the principal share of responsibility for the current occupation, dispersion and fragmentation of the Palestinian people continue in their efforts to try to identify more pliable "representatives" whose political programme would differ substantially from the Palestinian national consensus. This conflict over the right of the Palestinian people to its own representatives is now epitomized in the Camp David agreements. For it is clear from these agreements that they not only deny the Palestinian right to national identity and national independence and address themselves exclusively to the fate of less than one third of the Palestinian people and less than 20 per cent of the soil of Palestine, but additionally search in vain for a negotiator other than the legitimate representative of the Palestinian people. It is this combined violation of the fundamental rights of the Palestinian people which account for the moribundity of the Camp David agreements.

The Palestinian people have been struggling for the past 60 years to maintain their national and territorial identity to establish an independent national State on the historic soil of Palestine and to be governed by their own people. In a sense these three elements constitute the core of the Palestinian consensus on the fundamental rights of the Palestinian people. During the Mandate period, the national leadership developed a nationalist programme of action which identified the goals of the Palestinian movement and the means of attaining these goals and endeavoured to obtain Arab support for its objectives. The leadership failed in its efforts for reasons that need not detain us here. The struggle was resumed first when the Palestine Liberation Organization was established in 1964, reaffirmed the Palestinian national rights and expressed them in the "national charter"; second, the struggle was pursued more effectively and militantly subsequent to the 1967 war. Since then, the Palestinians have been engaged in a war of national liberation to realize their goals, in their pursuit of these goals, have received substantial international support. In 1969, the United Nations recognized the Palestinians' right to independence and sovereignty in Palestine and, acknowledged the Palestinians' right to return to their historic soil. In the same year, the United Nations acknowledged that the PLO was the legitimate representative of the Palestinian people.

Thus, the Palestinian leadership's definition of the fundamental rights of the Palestinians as including their right to national identity, national independence in Palestine and their own representatives is in conformity with the United Nations' identification of these rights.

B. ISRAELI SETTLEMENTS IN OCCUPIED ARAB LANDS: CONQUEST TO COLONY

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The vast areas which Israel occupied in the aftermath of the war against several Arab States in June 1967 still remain almost entirely under her control. Only a tiny portion of the Golan was restored to Syria in 1973, and the partial return of the Egyptian Sinai has been dearly paid for by Egypt's capitulation to the Camp David agreements, which have neither restored peace to the region nor brought Palestinian rights one step closer to achievement.

In fact, in the 14 years that have elapsed since the initial conquest, Israel, in defiance of the world community, has systematically planned and made operational a complex set of policies designed to absorb the territory she conquered while simultaneously expelling, subjugating or containing the Arab population which, to her unconcealed distress, she was forced to "take" along with the land. As Begin pledged openly on 3 August 1981, Israel intends to declare full sovereignty over the West Bank and Gaza within five years.

The strategies Israel has employed to this end have been diverse, the variations relating to the specific exigencies and characteristics of the separate sub-areas rather than to fundamental differences in goals. Most of the methods she has used are not recent inventions (Adams, 1977: 32 makes a similar point); they have been developed, honed and refined over the preceding two decades (between 1948 and 1967 to reduce Israel's own Arab population to an internal colony (the term is from Zureik, 1979). However, there was a critical difference in the areas of post-1967 colonization. Whereas remnants of the Palestinian population (160,000) constituted only a small minority in the land pre-empted by Israel in 1948, the areas which Israel occupied in 1967 were exclusively and often densely inhabited by Arabs (over 1.3 million), which clearly required a new approach and more drastic mechanisms. Thus, whereas the earlier "undesired" residents were given citizenship, albeit of second-class, the new populations could not be.

During the past 14 years, the Israeli goal has remained to consolidate her hold over the conquered lands and to suppress any resistance. Within this goal, the implanting of multiple centres of Jewish "settlement" has become an increasingly crucial technique in the overall strategy for converting conquest into annexation.

Needless to say, annexations, expulsions and the creation of settlements are specifically prohibited by international law. The Fourth Geneva Convention, in article 47, proscribes the annexation of occupied territory, and the United Nations has repeatedly condemned Israel's precipitous annexation of East Jerusalem and a wide belt of surrounding suburbs, villages and towns. Article 49 of the same convention prohibits the forcible transfer or deportation of residents from an occupied area, regardless of motive. And yet thousands of Palestinians have been expelled (see Lesch, 1979: 113-130, for a partial list of the "officially deported" ones) while many more have been, through measures to be described below, "pressured" to leave. The same article expressly forbids the transfer by an occupying Power of any of its civilian population into occupied areas. And yet, at the most recent count, over 90,000 Israeli Jews have been officially "settled" within the illegally- annexed Jerusalem district, and more than 30,000 others have been "settled" in some 100 nahals (military forts), villages and even towns that the Israeli Government has authorized, planned, financed and built in unannexed zones beyond the 1949 cease-fire line that Israelis refer to not as a border but euphemistically as a "green line".

The purpose of the present paper is to describe the processes of post-1967 settlement in the Golan, the West Bank (including Jerusalem), and the Gaza Strip/Sinai occupied areas. To comprehend the meaning of these processes, one must do more than acknowledge the exponential rise in the number of "settlements" and "settlers". One must understand how priorities have shifted over time, how the measures undertaken evolved in adaptation to the particular characteristics of each sub-area, and how settlement policies, rather than an isolated set of activities, are related both to similar strategies within Israel and to different activities (such as law, land and water expropriation, collective punishment and military governance) within the occupied areas. To understand these connections it is necessary to conceive of "conquest to colonization" as involving an entire gamut of means, ranging from brute force and primitive might, at one extreme, to resource deprivation and economic sanctions at the other end, passing through gradations of quasi-legal to "legal" subterfuges. Throughout it is important to bear in mind that while methods vary, the non-negotiable goals remain the same: namely, the incorporation and eventual annexation of the occupied lands.

The territories which most closely approximated the situation Israel enjoyed after 1948 were the Golan Heights and the valley land along the Jordan River (quite literally, the west bank of the river), since most of the inhabitants had been driven out by the war and forced to abandon farms, houses, infrastructure, possessions. It was in these districts that brute force cleared the area for "settlement", and it was in these districts that settlements were first implanted after the hostilities. No attempt was made to conceal the strategic and military purposes of these settlements, although Israel was, as we shall see, not adverse to exploiting the prepared farmland or to appropriating whatever infrastructure existed, as a bonus.

From the Israeli point of view, the Golan was a perfect answer to its quest for "a land without a people", even though that land lay outside Mandated Palestine. In the 1967 war, some 93 per cent of the more than 100,000 residents of the conquered territory were driven out, leaving only a small Druze remnant of some 7,000 who remained huddled at the extreme north-east corner contiguous to Syria. The fertile grain fields of the Quneitra basin lay "unclaimed" and for the taking; the irrigable tropical farmland at the southwest corner, just above Lake Tiberia, was similarly available to settlers (Harris, 1980). Since there was little population to be ruled, military rule sufficed for natives while Israeli law functioned for settlers. It was hardly surprising, then, that plans for the Golan should have been among the earliest, although for a long time plans far outdistanced execution.

The Allon Plan of 1967 recommended that some 20 "agricultural" villages, designed to contain some 7,000 "frontiersmen", be established within 15 years. A string of settlements near the Syrian "border" was clearly devised as a border "marker" and as a first line of defence. The settlements near Lake Tiberias, on the other hand, were to constitute a rear guard defence as well as an economically profitable set of investments. By 1969 plans had exploded to a more ambitious (but then unrealistic) scale which foresaw a resident population that would reach 45,000-50,000 in industrial and service towns and agricultural villages, within 10 years. It should be pointed out that in 1969, when such plans were being set forth, only 300 Jewish "settlers" had actually been implanted, scattered in 11 "settlements" that were military outposts.

In fact, the Allon Plan has proven to be the more realistic of the two, since at the present time the Golan contains some 28 skeletal settlements that, even with the post-1977 new town of Qatzrin under construction, contains a population barely exceeding Allon's target. But it was setbacks and controversy that yielded what to the Israelis are considered disappointing results. The inhospitable Golan initially had to compete for scarce settlers with the economically more attractive Jordan Valley and Rafiah-Sharm al-Shakh projects and with the crash projects in and around Arab Jerusalem. In consequence, by May 1972, there were only 600 "settlers" on the Golan, a number that increased only modestly by the time of the October 1973 war. About a third of the settlers, those in the first line of settlements, abandoned their indefensible sites on the first day of Syria's tank thrust, while many of the remaining two thirds, concentrated in the south, prepared to flee. It was only after the new cease-fire that settlement began in earnest.

As Allon told one interviewer in 1978 (Harris, 1980-82):

> "The lesson we learned from the Yom Kippur (1973) War was that every settlement should be fortified as if it were a military fortress."

In response to this view, by early 1974 a total of 18 settlements had been established containing a combined population of about 1,800 persons, a quantity that had risen to only 2,200 in some 20 settlements two years later. This slow progress was due more to intragovernmental controversy than to lack of intent and planning. In fact, the modest July 1973 plan for the Golan had been revised by April 1975 to one which was more comparable in scope and ambition to the Plan of 1969. The focus was on establishing proprietary rights over the central Golan which, up to then, had remained empty and used only for grazing. The city of Qatzrin, whose site had been selected as early as 1974, was to be the key centre of a block of industrial villages between the Quneitra basin front line and the Lake Tiberias agricultural block. Obstructed temporarily by the opposition of Ofer, then Minister of Housing, construction did not begin on the proposed city until 1976 when he was overruled and a plan was devised for a town of 20,000 persons. The initial settlers had begun to move into this projected centre before Begin's Government came to power in June 1977, but before that date the number of settlers on the entire Golan stood at less than 4,000.

Since the rise of the Likud, however, expansions in settlements have been occurring rapidly. By the end of 1979 there were 5,500 Israelis on the Golan and one year later there were close to 7,000. But new priorities rather than a failure of intent have made Golan of secondary interest. It is not that Golan has been abandoned (indeed, pressure for immediate annexation has been mounting) but merely that rapid control over the populated West Bank became imperative to forestall not only the establishment of a Palestinian State but even the modest amount of autonomy foreseen in the Camp David agreements. Israel lacks manpower and financial resources to work maximally and simultaneously on all fronts. It eventually chose to concentrate its money and personnel in Palestine itself.

The relatively underpopulated zone along the Jordan Valley had been, next to the Golan, the most easily colonized of the occupied zones because it too had virtually been emptied during the 1967 war. Jericho, the major city near the river, had contained a stable population to which had been added large "camps" in which refugees from the 1948 war were housed. During the 1967 war, most of this population crossed the river to East Jordan, many becoming refugees for the second time in their lives. In all, of the 84,000 Palestinians who had previously lived in the district, only 10,000 remained after 1967, leaving the zone apparently as available for colonization as the Golan. This turned out not to be the case since later it was learned that some of the landed property in the district actually belonged to Palestinian Arabs living in the more populated hill regions of the West Bank. Furthermore, the residual population of the Jordan Valley could not be governed separately from the rest of the West Bank because of their common juridical status as Jordanian citizens. Since the Israelis decided to leave Jordanian law in force - although as we shall see later drastically "amending" it to give a quasi-legal appearance to their colonization - at least ritual attention had to be paid to the form of the conquest.

The chief similarity between the Golan and the Jordan Valley, however, was that each was deemed an essential component of Israeli military strategy. Just as the settlements in Syrian territory were basically intended as forts, so also were the first settlements in the Jordan Valley again as part of the 1967 Allon Plan, which recommended "absorption into Israel of a security zone running the length of the Jordan rift" (Harris, 1980: 105). What was to have been a narrow strip only 10 to 15 kilometres wide along the river has, over the years, been progressively "thickened", at first to a depth of 15-20 kilometres and then, by the August 1975 Jordan Rift Development Plan, all the way "to the very margins of Arab cultivation on the West Bank highlands" (ibid.: 106).

But those changes represented no departure from the initial military intent. By the end of 1971 the first 10 settlements were in place along the first line of defence near the river. Of these, six were nahals (military forts), another three were defined as "civilian", but at least one was the suburb of Qiryat Arba, to which Jewish zealots wanting to settle in the Arab city of Hebron had been deflected in 1968. Despite the fact that settlers willing to move to the bottom lands were offered enormous economic incentives and subsidies, preferential water allotments and land that had been confiscated for their use, few Israelis chose to do so. By June 1975, there were presumably 15 settlements in the Rift, but these were populated by only 1,800 "settlers", of whom all but 620 lived in the industrial Hebron suburb of Qiryat Arba (ibid.: 112), yielding an average of only some 30 persons per non-urban settlement.

Gradually, as Israel's policy of colonization on the West Bank became more intense, the special treatment originally accorded the Rift area vanished. Allon's plan, which foresaw annexation of the security belt but had left a corridor of transit between Jordan (East Bank) and the populated hill regions of the West Bank so that the two might later be relinked, was abandoned. Settlements in the "security belt" by then "thickened" to meet the hills, diversified and proliferated until by June 1977 there were 25 with a combined population of well over 3,300 although still heavily concentrated around Hebron. Since the Begin Government came to power, the distinction between hills and valley has virtually disappeared and the Allon Corridor has become the site of some of the more important industrial/service towns and villages planned for the West Bank.[1]

Despite these transformations, the Allon line settlements are still treasured chiefly for their military value. At a 1980 lecture at Tel Aviv University, for example, Israeli Chief of Staff Rafael Eytan said:

> "The Jordan Valley and the Golan Heights' settlements are part of Israel's military formation and I regard them as regular army. The settlers are equipped with highly sophisticated weapons, they are well trained and know their role exactly should a war break out. Some of the settlements possess anti-tank rockets." (As quoted in the Israeli press and translated in Israel and Palestine Monthly Review, No. 83, December 1980, p. 11 of the supplement "Report on Palestinians under Israeli Rule".)

As noted earlier, however, the setting up of settlements in the valley was more complicated than in the Golan where ownership rights could be ignored. In the valley, therefore, Israel called into use the very techniques she had developed after 1948 to appropriate the property Palestinians had "lost" through defeat. Because these earlier precedents were utilized so directly, it is necessary to review that they were, to demonstrate the parallel. Sabri Jiryis (1976, especially chapters 4 and 5 on land expropriation) has lucidly summarized the "legislation" used to expropriate Palestinian landed property for Jewish use in post-1948 Israel. Most important were five early laws.

The first was the 1950 Absentee Property Law (finalizing earlier provisional regulations), which gave the Government full power to confiscate the property of Palestinians or any other Arabs who either were not then present or had, at any time after the end of November 1947 (!) removed themselves, even temporarily from their properties. John Ruedy (1971: 137) has pointed out that this meant that even Arab citizen of Israel who had never left the territory but "during the fighting or at any other time had moved a few yards or a few miles was classified as an absentee". A Custodian of Absentee Property was charged with supervising or "selling" this property to Jews.[2] In an early study, Peretz (1958:142) estimated that in addition to permitting the confiscation of all refugee property, the law actually resulted in the confiscation of some 40 per cent of the properties held by Arab citizens of Israel. It is significant that much of the land confiscated in the Jordan Valley (as well as land in other parts of the West Bank) belonged to persons who were either temporarily or permanently absent from their residences after June 1967; this land "passed to the Israeli Military Administration in its capacity as 'Custodian of Absentee Property'" (Harris, 1980:115).[3]

Second, there were the laws that permitted the "closing off" of privately owned lands, thus prohibiting its owners from access. These had an earlier origin in the British Emergency (Defence) Regulations of 1945 which gave the military governor power to restrict entry to areas declared "closed". These "laws" had been effectively used by the Israelis in 1948-1949 to prevent Arabs from returning to their homes and villages after the fighting. In the West Bank, in an exact parallel, the Israeli Military Commander has fully utilized his "right" to declare vast amounts of land as "closed areas". "This means that except for those holding permits from the Commander, no one may enter or leave the area", not even its rightful owner (Shehadeh and Kuttab, 1980:110).

Until 1972, the Israeli Minister of Defence was permitted to designate any portion of any area that was heavily populated by Arabs as a "security zone" in which no one was permitted to live permanently nor to build, nor even to enter. Jiryis (1976) points out that almost half of the Galilee, all of the Triangle and a buffer between Israel and the Gaza Strip were all designated as security zones. It will be recalled that the Allon Plan had formally established a "security zone" in the Valley which included all but the Jericho to Jerusalem corridor. Within this security zone, military districts were freely declared. Gradually this system has been extended to other parts of the West Bank. Military Order No. 393 allows the military governor to prohibit building or to stop construction activities "if he believes that this is necessary for the security of the Israeli army in the area or for public order" (as cited in Shehadeh and Kuttab, 1980:109).

The significance of these last two "laws" cannot be overestimated, since customary law makes the right to use communal and/or unclearly titled land contingent upon continued usage. By prohibiting entry, the Israeli Government within Israel and the military governor in the West Bank can force Arab farmers or herders to "abandon" usage and therefore "create" uncultivated land whose title reverts to the State.[4] This, too, was a "legal" device well honed since Israel was first established.

Fourth, the 1949 Ordinance governing the "cultivation of waste lands" (No. 5709) gave the Minister of Agriculture power "to assume control of the land in order to ensure its cultivation" in cases where "he is not satisfied that the owner has begun, or is about to begin or will continue to cultivate the land" (article 4, as translated by Jiryis, 1976). On the West Bank, the Military Governor exercised this power not only on lands in the Jordan Valley itself but also on "mountain lands belonging to villages situated to the west of the Rift Strip but only cultivated in years of good rainfall" (Harris, 1980: 115).

The fifth Israeli precedent for seizing property was Law 5710 (passed in 1949), article 3 of which permitted the Government to "order the seizure of property or the use of property as housing" whenever it deemed such orders necessary for "the protection of the country, public security, safeguarding essential supplies and services, or for settling immigrants, veterans or disabled soldiers" (as quoted and translated by Jiryis, 1976). Since the original emphasis in the Rift was on agricultural and grazing land, there was little need for a law of this kind, although it pointed the way to "amendments" to the Jordanian laws governing "expropriation" for public purposes, laws which will be more fully discussed when we examine settlement policies in the hill regions of the West Bank.

By far, however, maximum confiscation of land in the Jordan Valley (as had been the case in post-1948 Israel) came from the fiction of government succession. State lands, which under Islamic law existed in trust for the community, were assumed to revert automatically to the State of Israel, which would hold them in trust for the Jewish community. In the Middle East, it was only after the Ottoman Land Code of 1858 that the concept of absolute freehold tenure over land became significant, as powerful landlords registered claims over territory which, through usage, had "belonged" to those who worked it despite the fact that it was nominally in the name of the State. Even so, by 1948 a substantial portion of Palestine remained "state land" (Ruedy, 1971:122, 135). This was particularly true for desert, marginal and/or uncultivated lands or for lands used communally for pasture or grazing. In addition, over the centuries, property, including land, had been placed in mortmain (the system of waqf in which the usufruct of land or buildings might be earmarked for a charitable purpose while the title remained immobilized and under central religious administration). This too was treated as "State land" and therefore "absorbed" into the Israeli State.

While the confiscation and reassignment of "State land" to Jewish settlers is inherently no more legitimate than any other form of expropriation, the Israelis have made much of this distinction between public and private ownership in their defensive arguments. This is especially true on the West Bank, where lands which had been under the jurisdiction of the Jordanian Government were transferred directly to the Israeli military administrator (Harris, 1980:115), even though the areas were considered "occupied", rather than annexed. As will be seen in the section on more recent developments in the West Bank, the occupier is making maximum efforts to "create" as much "State land" as possible, for reasons even more important than legitimate expropriation.

The third portion of the occupied territories which received immediate attention by the Israelis after the 1967 war was Jerusalem, even though it afforded none of the ease of settlement of the Golan or even the Jordan Rift. Despite the difficulties involved, it was accorded highest priority and has actually been the recipient of the lion's share of Israeli "investment" and the destination of most of the Israeli Jews "settled" in the occupied areas. This large zone included not only the old walled city of Jerusalem but many of the suburbs, villages and farms within a large circumference around it.

Oddly enough, when the question of Jewish "settlements" is discussed, and especially when figures are released presenting the total number of Jewish "settlers" in the occupied areas, Jerusalem tends to be overlooked, despite the fact that at least 70 per cent of all Jews who have "settled" in the occupied areas actually live in the zone illegally annexed to Israel on 28 June 1967.[5] It is impossible to extract from Israeli statistics the exact number of Jews living in this zone since they are enumerated in the general totals for Jerusalem; similarly, it is difficult to monitor the extent to which Arabs have been displaced from this region since they too, although disenfranchised, are enumerated as part of the "non-Jewish" total for Jerusalem.

Nevertheless, one can estimate that somewhere in the neighbourhood of 110,000 Palestinian Arabs remain in East Jerusalem and its vicinity while there may possibly be as many as 90,000 Jewish settlers who, through incentives and other motivations, have occupied not only the cleared "Maghrabi Quarter" of the old city but virtually all of the surrounding hills as well. In 1958, the population of Israeli-held Jerusalem was 156,5000, of whom only slightly over 2,000 were "non-Jews", not all of them Arab Palestinians. By 1968, the population of the combined (east and west) district had reached 275,000, of whom more than one fourth were non-Jews, almost all of them Palestinians. This increase came overwhelmingly from the annexation of not only Arab Jerusalem but a wide hinterland around it. By the end of 1979, the total population of the district approached 400,000, of whom 203,225 were Jews, yielding a net increase over 1968 of some 84,000 (we have computed these from data presented in Statistical Abstract of Israel, 1980, 1981:3). Since that time the pace of expropriation and construction has accelerated dramatically.[6]

In 1976, three different plans, all recommending further expansion of settlements in the Jerusalem region, competed for adoption.[7] The first set forth by the Ministry of Housing, recommended two to three new cities as well as a number of "neighbourhoods" around Jerusalem, including a town at Givon, to house some 1,200 families etc. These satellite cities - all, it should be pointed out, quite far beyond even the annexed boundary of Jerusalem - were self-consciously designed as a step towards further annexation. As the architect of the Ministry of Interior commented on the plan, "there is sense and purpose in building the settlements as proposed in the plan only if there is an intention to annex that area and the area between the settlements and Jerusalem to the Israeli State" (Middle East Research and Information Project (MERIP), August 1977:20). The second, presented by the Israel Land Administration, foresaw the construction of a large (25,000-40,000 inhabitants) city in Lower Beit Horon, with the zone between it and Jerusalem linked by a series of rural settlements some five kilometers apart, i.e., Upper Beit Horon, Givon, Nabi Samuel, and Ma'ale Abram. The third plan to "fatten" Jerusalem on the north was advanced by the Settlement Department of the Jewish Agency, which recommended that four industrial villages be established at Givon. Note that whether or not settlements should be located to "expand" the perimeter of Jerusalem was not in question; the object of debate was only to determine the best way to do it. While none of these plans was adopted in full, subsequent developments have taken the substance if not the exact form of the plans. Maximum attention has been paid to creating satellites and distant suburbs, with the clear intent of eventually adding these outlying zones to the region "annexed" in 1967.

Thus, in March 1980, construction of another 10,000 dwellings was announced for the French Hill/Neve Yaacov northern axis. To the east of Jerusalem a much more serious venture has been taking shape in the form of the Ma'aleh Adumim block which is "targeted to become a major residential and industrial complex which will complete the encirclement of Jerusalem", and which, when completed, "will extend the municipality eastward more than eight miles towards the floor of the Jordanian Valley" (see the eyewitness account of Sheila Ryan and George Cavalletto, "Israeli Settlements in West Bank and Gaza", as reproduced in a supplement to Palestine!, dated September, 1980, pp. 9-17; quotation from p. 10). The satellites at Beit Horon (which it should be noted is located north of Ramallah) and Efrat (located to the south of Bethlehem) have both been receiving land allocations of hundreds and thousands of dunums, thus clearly delimiting the north-south axis of the intended "thickening" (or rather elongation) of the Jerusalem district many kilometers beyond existing annexation boundaries. At Givon, west of Ramallah, an urban centre intended to accommodate 20,000 to 30,000 inhabitants has already been authorized.[8]

The scheme that is evolving is clear. A crash programme has been mounted to construct a ring of major urban satellites to the northwest (Givon), north (Beit Horon), east (Ma'ale Adumim) and south (Efrat) of the Jerusalem district but quite distant from its contiguous suburbs. Once these settlements are in place, at least provisionally, they, together with all the intervening land between them and Jerusalem, will be annexed to Jerusalem, and thus to Israel. Not creeping but leaping annexation is the strategy that evidently has been adopted (see figure 1).

These developments in the Jerusalem area are clearly linked to a change in tactics, or rather a final resolution of the debates about strategy, *vis-à-vis* the fate of the entire West Bank. As we shall see below, the 1978 Camp David accords, in which Israel agreed to "consider" an "autonomy plan" for the West Bank and Gaza, merely intensified the urgency to "create facts" quickly to forestall any possibility of autonomy. The final decision to alter immediately and drastically the geographic and demographic character of the occupied area - especially of the West Bank including outlying parts of Jerusalem - was revealed in full detail in the Drobles Plan dated October 1978. We must therefore turn to the heart of the "settlement" strategy by looking more directly at the rest of the West Bank. Before doing this, however, we should look briefly at the settlements in the south-west - in the Gaza Strip, the so-called Rafiah Salient, and the Sinai proper, since the Camp David agreements also signalled a shift in the strategy there.

In 1967 Israel also expanded southward, overrunning the Gaza Strip which since 1948 had been administered by Egypt. Within a few days Israeli advanced units had reached the eastern bank of the Suez Canal deep in Egyptian territory. All of Sinai lay behind the front lines and the major Egyptian cities on the western bank of the Canal, although not occupied, suffered severe destruction and depopulation. For the next 12 years Israel continued to occupy all of this territory, but in only a few sub-areas were settlements implanted.

The Gaza Strip, inhabited by over 400,000 Palestinians and already badly overcrowded, was clearly not the most congenial setting for colonies. Indeed, by 1978, there were only 500 Jewish "settlers" in Gaza, all in military posts or at the edge of the Rafiah Salient at the Egyptian border. Even after some of the Sinai settlers were regrouped, their number had risen to only 1,000 (circa 1980, as per Israeli newspaper accounts reproduced in Israel and Palestine Monthly Review, No. 82, Supplement for July, 1980:3). Unlike the Golan, Gaza had not been "emptied" during the war, in part because there was no escape route through the encircling Israeli army. The modest drop of estimates and the post-war census conducted by the Israeli Defence Forces in the fall of 1967 was due to (a) persons temporarily absent (working or in school abroad) who could not return; (b) some overestimation in the original Egyptian figure; (c) some possible under-reporting in the Israeli census. Despite this decrease, the Strip remained too crowded for settlements.

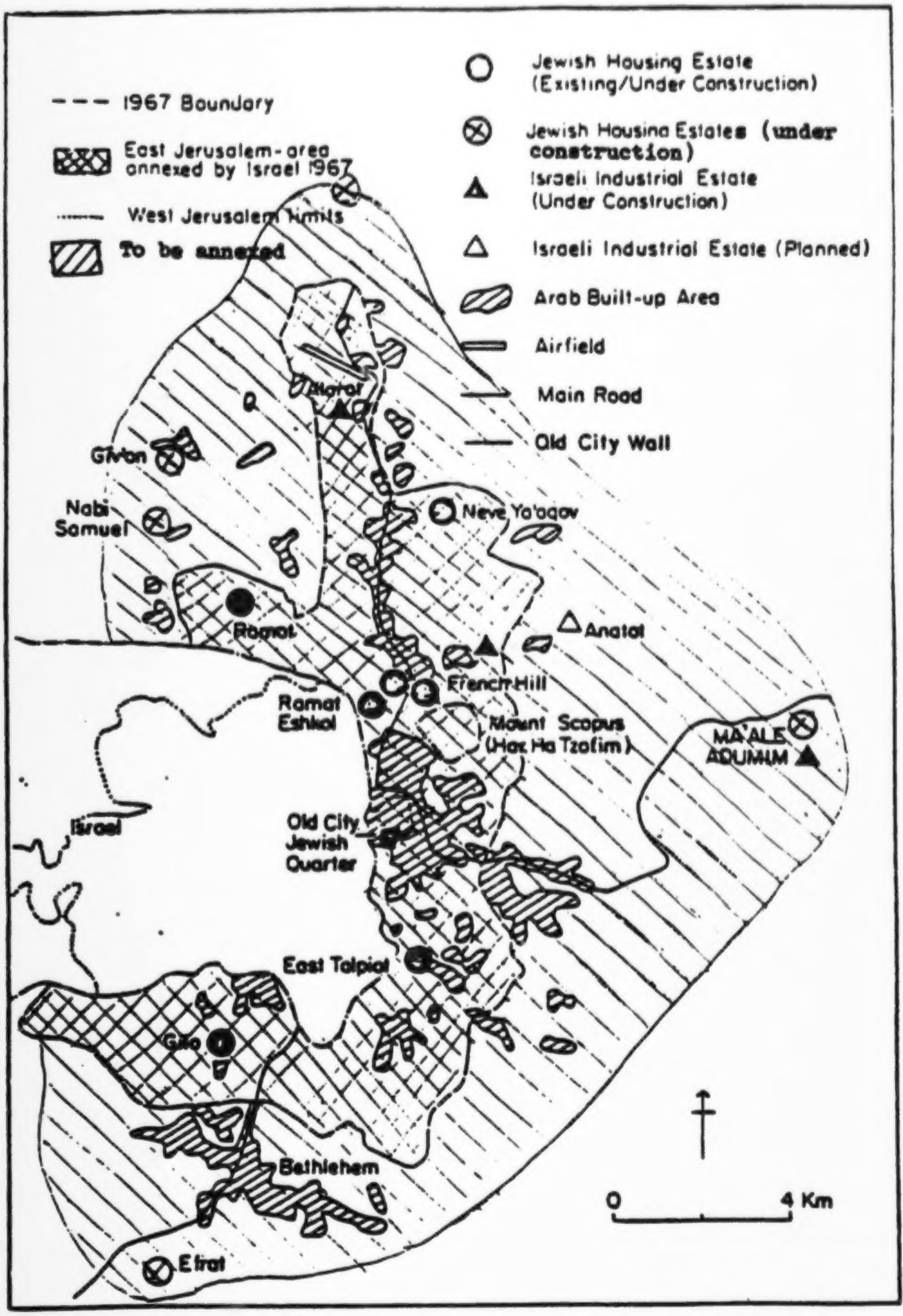
After the war a military administrator was set up to govern what was essentially a Bantustan or "native reserve". Movement in and out of the Strip was rigidly policed, harsh suppression of dissent has been the rule, and no effort has been made to cloak the penal colony colouration of the occupation by legalistic niceties. Collective and summary punishment, massive "preventive" detention, imprisonment, often without charge or trial, and expulsion have been the chief sanctions used to control the population.

But while governance has been military, economic relations have been civilian and profitable to Israel. On the export side, the Strip provides its chief product, oranges, and also its cheap labour. Israel controls the disposition of the citrus crop, of which about one third is marketed in Israel, the rest exported, chiefly to Jordan (Statistical Abstract of Israel, 1979: 746, table XXVII/28). Over the years the proportion of Gaza's employed labour force that commutes daily to fill unskilled jobs in Israel has climbed steadily, from only 10 per cent in 1970 to 43 per cent by 1979 (Statistical Abstract of Israel, 1980: 696, table XXXII/19). From the very beginning, of those working in Israel, the largest proportion (between 40-50 per cent) has been employed in construction, although a stable number (albeit declining proportion also worked as agricultural labourers (ibid.). On the import side, the captive population has had no choice but to serve as an equally captive market for industrial and other products imported from Israel. Over 90 per cent of all Gaza's imports now come from Israel, while Israel accounts for only 67 per cent of the Strip's exports. This imbalance in trade yields a significant "deficit", assuring that the wages paid to Gaza Strip workers in Israel will be systematically "recycled" to the Israeli economy (Statistical Abstract of Israel, 1980: 685, table XXVII/11).

If the best analogy for the Gaza Strip is a Bantustan, the closest functional parallel to the Rafiah Salient is the original Allon "security belt" along the Jordan River. The Sinai strip is a narrow band, about 20-30 kilometers wide, that stretches inside Egyptian territory from the Mediterranean coast all the way to the southern tip of Sinai, paralleling both the Palestine-Egyptian frontier and the east arm of the Red Sea. Israeli settlements in this area included a handful along the Red Sea which in 1978 "housed" only 930 settlers. Most settlements however were concentrated on the Mediterranean coastal plain where they were designed to encircle Gaza from the southwest; by 1978, there were some 15 or more nahals and civilian units containing a resident population of some 3,500 in this area. Some 1,700 of these settlers were located within Dayan's ambitiously conceived port "city" of Yamit for which, in 1972, Israeli soldiers had driven off "some ten thousand farmers and bedouins, bulldozed or dynamited their houses, pulled down their tents, destroyed their crops, and filled their wells (article by Israeli journalist Amnon Kapeliouk in Le Monde, 15 May 1975, as quoted by Adams, 1977:38).

When the Egyptian-Israeli peace talks began, the Sinai settlements were placed "on hold" since Egypt expected to regain all her lost territory at the end of a long process of piecemeal Israeli withdrawal. Some disgruntled Israeli settlers were relocated in Galilee or on the West Bank and other lost interest once incentives were reduced. But despite these contractions it is clear that Israel considers her presence in the Rafiah Salient absolutely essential in order to tighten the encirclement of Gaza and to ensure that the Strip will never again have administrative or geographic links to Egypt even after (or if) the bulk of Sinai is returned.

While the Camp David accords removed some of the motivation for Israel to colonize all but the absolutely essential ring needed to isolate Gaza, they heightened the urgency of settlement elsewhere. The discussions, with their



1967 Boundary
East Jerusalem-area annexed by Israel 1967
West Jerusalem limits
To be annexed
Jewish Housing Estate (Existing/Under Construction)
Jewish Housing Estates (under construction)
Israeli Industrial Estate (Under Construction)
Israeli Industrial Estate (Planned)
Arab Built-up Area
Airfield
Main Road
Old City Wall
Atarot
Givon
Nabi Samuel
Neve Ya'aqov
Ramot
Anatot
French Hill
Ramat Eshkol
Mount Scopus (Har Ha Tzofim)
MA'ALE ADUMIM
Israel
Old City Jewish Quarter
East Talpiot
Gilo
Bethlehem
Efrat
0
4 Km

Figure 1. East Jerusalem and environs: Existing and proposed Israeli construction sites, 1967-1979 (adapted from Harris, 1980, figure 12.

threatening allusions to "Palestinian autonomy", created an emergency situation. Israel had to use the interim five-year period (which Egypt anticipated would eventuate in Palestinian autonomy but which Israel even more strongly determined would lead to full Israeli sovereignty over the West Bank and Gaza) to render even a partial and impotent Palestinian State absolutely impossible.

While no attempt has been made to conceal Israel's intent to absorb the remainder of Palestine, attempts were made in the Western press from time to time to confuse the issue. All doubt has been recently dispelled not only by the written pledge Begin gave to the religious parties in August 1981 (quoted p. 1), but in a statement by Ariel Sharon, director of settlement planning and now newly appointed Minister of Defence, who said unequivocally in February of 1981.

> "I shall now allow the establishment of a Palestinian State in Samaria, Judea (the Israeli terms for the northern and southern sections of the hill region of the West Bank) and the Gaza Strip." (Interview with Sharon conducted by David Shipler entitled "Israeli Says He is Satisfied with Settlement 'Skeleton'", *The New York Times*, 19 February 1981:4).

In these positions, both politicians were merely confirming the statement of principles that introduced the October 1978 *Master Plan for the Development of Settlement in Judea and Samaria*, the so-called Drobles Plan prepared by the Settlement Department of the World Zionist Organization, which has become the guiding document for subsequent settlement activities. Paragraph 1 baldly states that "settlement throughout the entire land of Israel (which includes "Samaria and Judea") is for security and by right ... (and makes concrete) ... our right to Eretz-Israel". Paragraph 3 foretells the strategy to be employed:

> "The disposition of the settlement must be carried out not only *around* the settlements of the minorities (sic), but also *in between them*, this in accordance with the settlement policy adopted in Galilee (the region within post-1948 Israel which contains the highest concentration of Palestinian Arabs) and in other parts of the country." (See the Drobles Plan, 1978, mimeo, p. 1. Italics in original).

Given the centrality of the West Bank to Israel's current strategy for colonization, we must look in detail at this zone which contains, even without Jerusalem, over 700,000 of the 1,250, 000 Palestinians who live in that area which has been under Israeli military occupation since 1967.

The somewhat densely populated hilly sections of the West Bank had, from 1967 onward, been a tiger by the tail for the Israelis. The region was agriculturally productive, in contrast to the moonscape terrain between it and the Jordan valley irrigated plain, was dotted with villages and a hierarchy of small towns and modest-sized cities that culminated in the primate of Jerusalem and it, rather than the lusher Mediterranean coastal plain Israel had taken over in 1948 was, according to Jewish lore, the real location of the ancient and short-lived State of Israel. All these factors made it the most logical candidate for immediate annexation.

The problem was chiefly demographic. Even though population was down somewhat from the pre-June 1967 total,[9/] at the time of conquest the region still contained close to 590,000 Palestinian Arabs not including those who lived in the annexed Jerusalem area or in the Jordan Rift. To have added this population to Israel would have been to practically treble the number of Arabs in the State. The major internal debate in Israel just after the war (between the "maximalists" and the "minimalists") turned on how best to incorporate the area without annexing its inhabitants.

Over the opposition of such maximalists as Begin and even Dayan (the classification is Harris', 1980:34-35), the Allon Plan was adopted which effectively postponed the question of West Bank (referred to as Samaria and Judea) annexation and settlement. By 1969 the only Jewish settlements beyond Jerusalem were three small ones in the Etzion Block (between Bethlehem and Hebron) and the "illegal squatters" from Gush Emunim who had pre-empted parts of Hebron (theoretically defined as Rift but in reality part of the hill zone). The total settler population numbered no more than 800. But 1970 forced the terms of the debate. In that year, the urban settlement of Qiryat Arba was given official recognition as a technique for satisfying the Gush Emunim while drawing settlers to the outskirts rather than the center of Hebron. Policy was shifting but the exact outcome was still under debate.

Dayan was advocating more aggressive alteration in the status of the West Bank, the "mixing" of Jewish and Arab settlements, and even the application of Israeli law over the entire zone since existing Jordanian laws were proving a stumbling block in the way of changes the Israelis wanted to introduce. Caution was recommended, however. Not only were the Jerusalem and Qiryat Arba areas being overbuilt and undersettled,[10/] but insufficient groundwork had been done in reducing the resident population of the state of dependency for Jewish settlements since, unlike the Golan or even the Jordan Rift, the area was well occupied by a population which cultivated and had rights over the land. While efforts were redoubled to "fill up" the settlements that already exited, work also intensified on the two more basic issues of economic "integration" and the creation of a legitimate legal structure. The former was to prove a long and complex task, while a decision about the latter had taken clear shape by 1970. As Shehadeh and Kuttab observe:

"In 1970 Moshe Dayan proposed a governmental committee be set up to study Jordanian laws, with a view to replacing them with Israeli laws. A month later, Dayan withdrew his suggestion. After revaluating the situation he realized that applying Israeli law over the West Bank would be tantamount to annexation ... The same advantages and for Israel could be gained if Jordanian law were preserved and the Area Commander made substantial amendments to it ... The Area Commander then began to exercise more freedom in amending Jordanian law to meet Israel's needs, and the subject matter and the pace of issuing new orders underwent a basic change.

"In effect, the Area Commander assumed full legislative power. Judging from the quantity of military orders already passed, numbering 854 (as of 1979), these powers have been fully exercised." (Shehadeh and Kuttab, 1980:102-103).

The advantages of this subterfuge have been considerable. Not only did Israel avoid premature annexation and the potential claims of the population on citizenship (which, in fact, had proven of little protection to other Palestinians before them), but she could conceal the arbitrary non-legislated changes in the "law" by hiding behind Jordanian "legitimacy" (ibid., 103-104). Not until maximum harm had been done to deprive the occupants of their land, resources, economic independence and geographic contiguity would the question of annexation and autonomy have to be raised, but by then it would be too late to reverse the process. Israel counted on accomplishing the groundwork gradually, after she had consolidated her settlements in other subregions. But the pressures from the religious Gush Emunim, from one side, and the threatened talks about autonomy, from the other, forced the stepped-up pace evident in the post-1977 period.

Soon after the 1973 war, the Labour Government drew up a Fourteen Point Document that "explicitly stated that Israel would not return to the 1967 borders and that there would be no Palestinian State on the West Bank" (Harris, 1980:126). However, for the next two years settlements to back up this claim were hard to mount, because immigration had fallen off drastically and settlers were difficult to recruit. Emphasis was therefore laid on settling the immediate vicinity of Jerusalem and tightening the bonds of dependency between the rest of the West Bank and Israel through "economic integration". This strategy had the immediate advantage of providing Israel with labour power, which was in short supply, while assisting, in the long run, with "freeing up" land for eventual Israeli settlement.

The West Bank labour force, however, was neither as underemployed nor as captive as that of the Gaza Strip, which means that both carrot and stick were needed to recruit Arab labour for Jewish projects. The carrot was clearly jobs, primarily in construction and ironically largely to assist in "creating new realities" in the vicinity of Jerusalem. Although in 1970 only 12 per cent of the West Bank labour force was employed in Israel, that percentage was to increase to 22 by 1971 and 28 by 1972. The peak was reached between 1973 and 1975, when some 31 per cent of all West Bank workers "commuted" to Israel for employment. Since that time, the percentage has stabilized at about 28 per cent, but this masks the fact that, increasingly, those working within the West Bank itself are employed by Jewish enterprises (Statistical Abstract of Israel, 1980:696, table XXVII/19). The "sticks" were of two kinds: first, the rapid rise in the cost of living, brought about through the importation of Israel's heightening inflation, as the West Bank market was captured; and secondly, by the deprivation of alternative livelihoods, through confiscation of farm land and enclosure of communal pastures, and through the pre-emption of scarce water supplies, without which land is valueless.

Van Arkadie's study for the Carnegie Endowment for Peace, Benefits and Burdens: A Report on the West Bank and Gaza Strip Economies Since 1967, published in 1977, focuses on the market forces that governed Israel-West Bank relations between 1967 and 1975-1976. While acknowledging the peculiarities of the forced integration and the inequalities of power, which could not help but ensure that integration would most benefit Israel by providing her with a cheap source of labour and a captive market for expensive consumer goods, Van Arkadie's analysis minimizes Jewish settlement possibilities and tends to dismiss the increasingly harsh military rule as an unpleasant but not crucial (to the economy) concomitant of occupation. Somewhat more realistic is Salim Tamari's analysis (Nakhleh and Zureik, 1980: especially 89-92, which depends heavily on Hilal's 1975 study of the West Bank) which, while still arguing that economic factors have been more important than settlements in bringing about the subjugation of the West Bank, recognizes clearly the temporary and transitional nature of this stage of colonization.

The analyses have been rendered obsolete by more recent changes in Israeli strategy which were becoming evident during the last two years of Labour rule and have become even more marked since the Likud came to power in the spring of 1977. The linkages between economic dependency, land confiscation, population "displacement", and the implantation of tiny settlements, "many of them only fortified look-outs"), now so apparent on the West Bank, resemble patterns developed by Israel to "deal with" the major Palestinian concentration she inherited after 1948 in the northern province of Galilee. It would be helpful, therefore, to look at that case in which economic "integration" was supplanted by internal colonialism and then by the system which currently serves as the acknowledged model and text case for the projected settlement of the West Bank via the Drobles/Sharon Plan.

The parallels are obvious. The "Northern District" (especially the agricultural district of Galilee) was the only densely occupied part of the portion of Palestine taken over by Israel in 1948 in which Jews constituted a minority.[11] Out of the 156,000 Palestinians remaining behind Israeli lines, close to 91,000 (or 73 per cent) lived in the northern district where they constituted 63 per cent of the total population. In a concerted effort to break up this concentration and reduce the Arab population to "minority" status, as much land as possible was confiscated, villages were destroyed, and Jewish "settlers" implanted. At the same time, efforts were mounted to incorporate the labour force into the Israeli economy and to gain control over the agricultural production in the region. By 1961, despite high rates of natural increase that raised the Palestinian Arab total to almost 143,000, Jewish residents had increased from only 53,000 to over 194,000, almost entirely through migration, making them a majority (of 58 per cent) in the district. Since that time, however, the momentum has not been sustained and by 1971-1972, the Arab minority had crept up to 46 per cent. Competition with the occupied areas for potential settlers were beginning to drain the limited pool. The "demographic nightmare" of Israeli fantasy was coming to pass; Arabs were again likely to outnumber Jews in the district.

A new plan for "Judaization" of the Galilee was therefore set forth in 1973 to guide the establishment of settlements there. Land confiscations were stepped up on the assumption that even if there were insufficient Jews to populate the zone, control over the inevitable future majority could be better exercised if the Arab population were compressed into smaller and smaller "pockets", interspersed by surveillance fort-towns, and if the livelihoods of Arab residents could be made increasingly dependent upon Jewish enterprises.

Both systems had been tried before. As Zureik notes, by the mid-1960s, many of the Jewish "settlers" who had been assigned confiscated agricultural lands in the Galilee:

> "Were gravitating to urban centres seeking more profitable employment ... (These) settlers were leasing land to Arabs. The arrangement was that Palestinian peasants would cultivate the land (which originally might have belonged to them, but was later confiscated by the authorities) in return for a payment of a portion of the crop's yield ... The situation as a whole obliged the authorities to pass in 1967 the Agricultural Settlement Act to avert the danger of Palestinian Arab repossession of their land." (Zureik, 1979:116).

The situation was summed up by Israeli critic Uri Avnery in his discussion of Jewish effendis and Arab cultivators: "Land was confiscated from the Arabs and handed over through favouritism to Jews who then leased it back to the Arabs who have thus become its cultivators" (as cited in Zureik, 118). Despite laws to the contrary, the system continued, reducing Arab farmers to share-croppers. But not all of the Galilee's labour force could be thus accommodated. Instead many, once they had been deprived of land and water rights, had to enter the urban labour force, working in Jewish factories as domestics and other servants, and in construction. By the 1970s, less than one in five Arabs in Israel was engaged in farming, in contrast to close to 60 per cent in 1948.

But by the mid-1970s, it was clear that mere economic dependence was insufficient to assure docility in Israel's increasingly vocal Palestinian Arab minority. The growing population of the Galilee would have to be really removed from the land and their geographic concentrations "broken up" and contained. In October of 1975, a publication by the Israeli Ministry of Agriculture spelled out the "dilemma" and signaled the creation of yet another plan to deal with Galilee.

> "(The) special problem of the Galilee is that the Jewish population is outnumbered by the non-Jewish (sic) population ... It is necessary to change the existing situation regarding the demographic ratio ... by means of a long-term development plan ... Since the fundamental task of ... making the Galilee into a region with a Jewish majority cannot apparently be implemented in the immediate future, the plan was devised to comprise of an early part extending to 1980 and a later stage from 1980 to 1990." (As quoted in the English translation in "The Land Question in Israel", MERIP Report 47:4).

Later events revealed the nature of this new plan. First, extensive additional areas of land were to be confiscated "in and between" existing Arab settlements even if sufficient Jewish "settlers" could not be found to take over cultivation. Such a process would force Arabs to "deconcentrate". And secondly, Jewish "settlements", even if they consisted of only single "look-out" towers that permitted a few armed Israelis to prevent Arabs from entering or farming the confiscated and enclosed land, were to be implanted in the midst of Arab areas, thus fragmenting geographic contiguity and hopefully therefore preventing political organization.

In February 1976, the Israeli Cabinet decided to confiscate thousands of areas of Arab-owned land in Galilee (as well as in the Negev). It was this new resolve to break the back of the Arabs of Galilee that led directly to the Palestinian protest march on 30 March 1976, referred to as "Land Day". Since that time, despite growing bitterness and mounting protests, confiscations have continued and "look-outs" (called "settlements" have been systematically sprinkled between Arab villages. The rise to power of the Likud marked an intensification of this process. As Ariel

Sharon, then Minister of Agriculture under the Begin Government, said in June 1979, "We are going to spray Galilee with Jews (in an exchange with a correspondent from Ma'ariv, reported by Shoukri Abed, whose interview appears in MERIP Report 83, 1979:24).[12]

The parallels between Galilee and the West Bank are of more than passing significance. Too often, the "Jewish settlements in the Occupied Areas" are treated as something new and different rather than as mere extensions (with even fewer inhibitions) into new areas of the methods and techniques that have been utilized within Arab sections of Israel from the establishment of the State in 1948 up to the present. Nor is the "transfer" simply one way. While originally it was methods honed in Galilee that were applied to the occupied areas, it now appears that some of the methods being refined in the West Bank are being reimported for use inside Israel. Present actions in Galilee are guided by the theory made explicit in the Drobles Plan for the West Bank.

Figure 2 shows the spatial organization of this plan which, since 1978, has guided the implantation of Jewish "settlements" throughout the West Bank. It is in striking contrast to the more restrained Allon Plan of 1967 (reproduced as figure 3), although it is clearly related to the sites settled by the Gush Emunim between 1975 and June 1979 (as shown in figure 4). By 1978 so few Jewish settlers had been relocated to the West Bank outside the Jordan Valley and the annexed portion of East Jerusalem and environs, that one could easily have been misled into dismissing the plan as sheer megalomania - "demographic lunacy", as Harris calls it (see his graphic presentation of the situation as of 1978, reproduced as figure 5). Given the persistent shortage of settlers and the astronomical expenditures required to install each addition person - estimated at $20,000 per settler in the Drobles Plan of 1978 and undoubtedly higher now with inflation - it might seem hard to take the plan seriously. And yet, within the past four years, the number of Jews living on the West Bank (outside annexed Jerusalem) has apparently increased from about 3,200 to 20,000 or 25,000 and the number of "settlements" has risen exponentially from perhaps 24, most of them in the Jordan Valley "security belt", to 85, most of them in the populated hill areas.[13]

While current claims are undoubtedly exaggerated for political purposes,[14] only wilful self-deception could conceal the fact that, especially within the past two years, the entire Government apparatus of Israel and virtually unlimited funds have been thrown behind a crash programme on the West Bank. While this programme obviously cannot overcome the basic fact of an Arab majority, it can go a long way, as in the Galilee, to fragment, control and eventually drive out the Palestinian residents.

Certainly, the timing of the crash programme bears out Harris' contention that June 1979 marked the "ending of timidity" in Israeli settlement policy on the West Bank (p. 115), or rather the full disclosure of Sharon's hand. As Harris quite perceptively concludes (ibid.):

> "The new settlement framework had major implications for Samaria's Palestinian population. In the long term, the Arab community would be cut into isolated blocks, separated from one another by the Sharon lines (major highways connecting the settlements), from Judea by a Jewish outer ring around Jerusalem and from the outside by the pre-existing Jordan Rift. On a West Bank segmented in this fashion it would be difficult to imagine any genuine self-government beyond the municipal level as a practical possibility."

One must see the new policy as chiefly directed against any possible "autonomy". John Ruedy, in his discussion of Zionist land strategies even before the State was established, point out that one of the perennial objects of land acquisition has been "for political purposes in order to confront the great Powers and international organizations with established Jewish presence in areas susceptible to loss in possible negotiations" (1971:129).

Therefore, this policy also gave high priority to the land ownership question. Because the areas to be "settled" were located in the midst of existing Arab villages and their surrounding farm lands, Jewish settlements could not be implanted without seizing Arab land. Thus, along with the physical plan for settlements went a legal plan whose goal was to maximize the amount of land that could be defined as "State land" and be sequestered. This, too, was extremely relevant to the issue of autonomy. The Drobles Plan (para. 4) boasted that "new settlements will be established only on State-owned land, and not on private Arab-owned land which is duly registered".[15] The emphasis on State land was more than a legal nicety. The true function of the heightened campaign to convert as much privately-owned land on the West Bank to State ownership was revealed by Ariel Sharon himself in an interview published in The New York Times on 19 February 1981. In it, Sharon baldly stated:

> "Israel has proposed that land (in the West Bank and Gaza) be placed in three categories: privately-owned, which would be under the local Palestinian authority; publicly-owned, without a usage designation, to be administered jointly by Israel and the Palestinians; and state-owned for military or settlement purposes, whose disposition would be exclusively in Israeli hands."

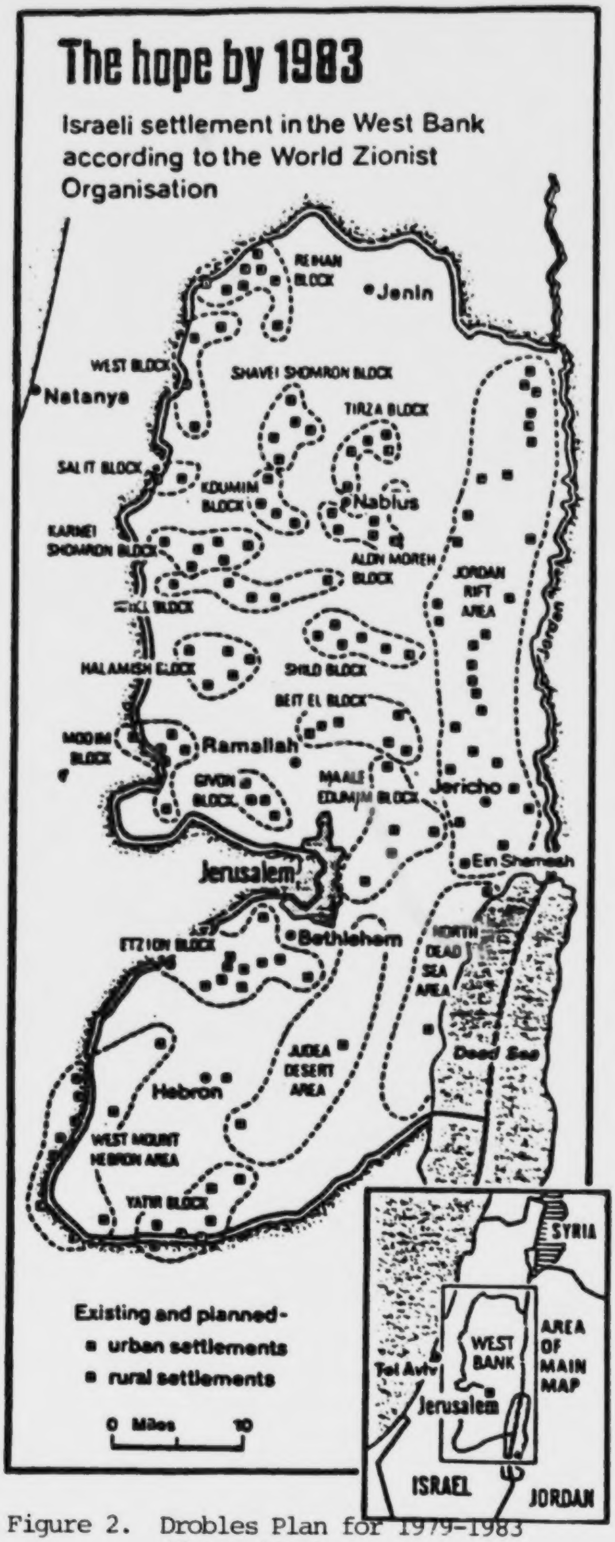

The hope by 1983
Israeli settlement in the West Bank according to the World Zionist Organisation
REIHAN BLOCK
Jenin
WEST BLOCK
Natanya
SHAVEI SHOMRON BLOCK
TIRZA BLOCK
SALIT BLOCK
KDUMIM BLOCK
Nablus
KARNEI SHOMRON BLOCK
ALON MOREH BLOCK
JORDAN RIFT AREA
Jordan
HALAMISH BLOCK
SHILO BLOCK
BEIT EL BLOCK
MODIIN BLOCK
Ramallah
GIVON BLOCK
MAALE EDUMIM BLOCK
Jericho
Ein Shemesh
Jerusalem
ETZION BLOCK
Bethlehem
NORTH DEAD SEA AREA
Dead Sea
JUDEA DESERT AREA
Hebron
WEST MOUNT HEBRON AREA
YATIR BLOCK
Existing and planned -
urban settlements
rural settlements
0 Miles 10
SYRIA
WEST BANK
AREA OF MAIN MAP
Tel Aviv
Jerusalem
ISRAEL
JORDAN

Figure 2. Drobles Plan for 1979-1983 (dated 1978).

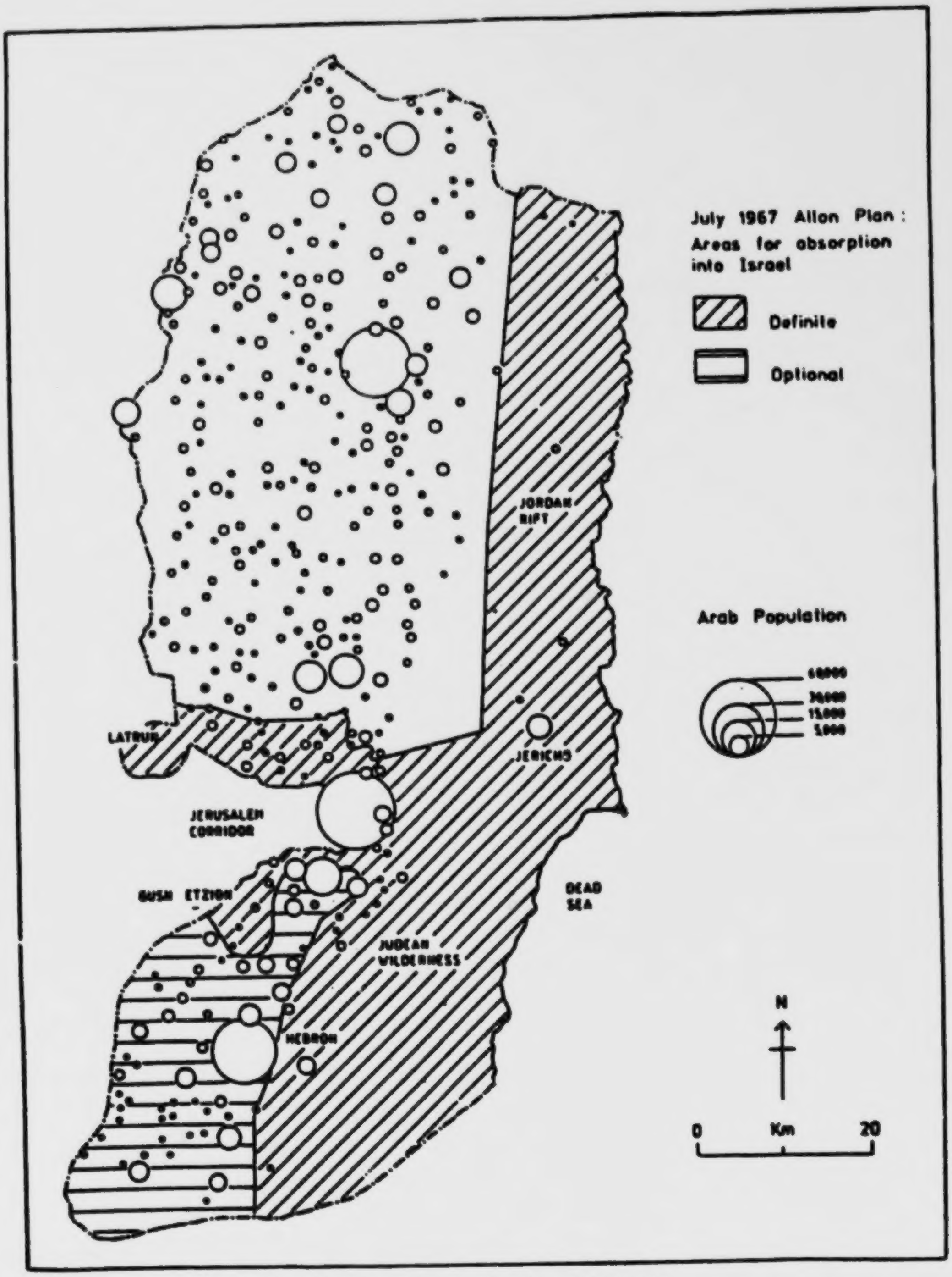

July 1967 Allon Plan : Areas for absorption into Israel
Definite
Optional
JORDAN RIFT
Arab Population
60000
30000
15,000
5,000
LATRUN
JERICHO
JERUSALEM CORRIDOR
GUSH ETZION
DEAD SEA
JUDEAN WILDERNESS
HEBRON
N
0
Km
20

Figure 3. July 1967 Allon Plan (Harris, 1980:39).

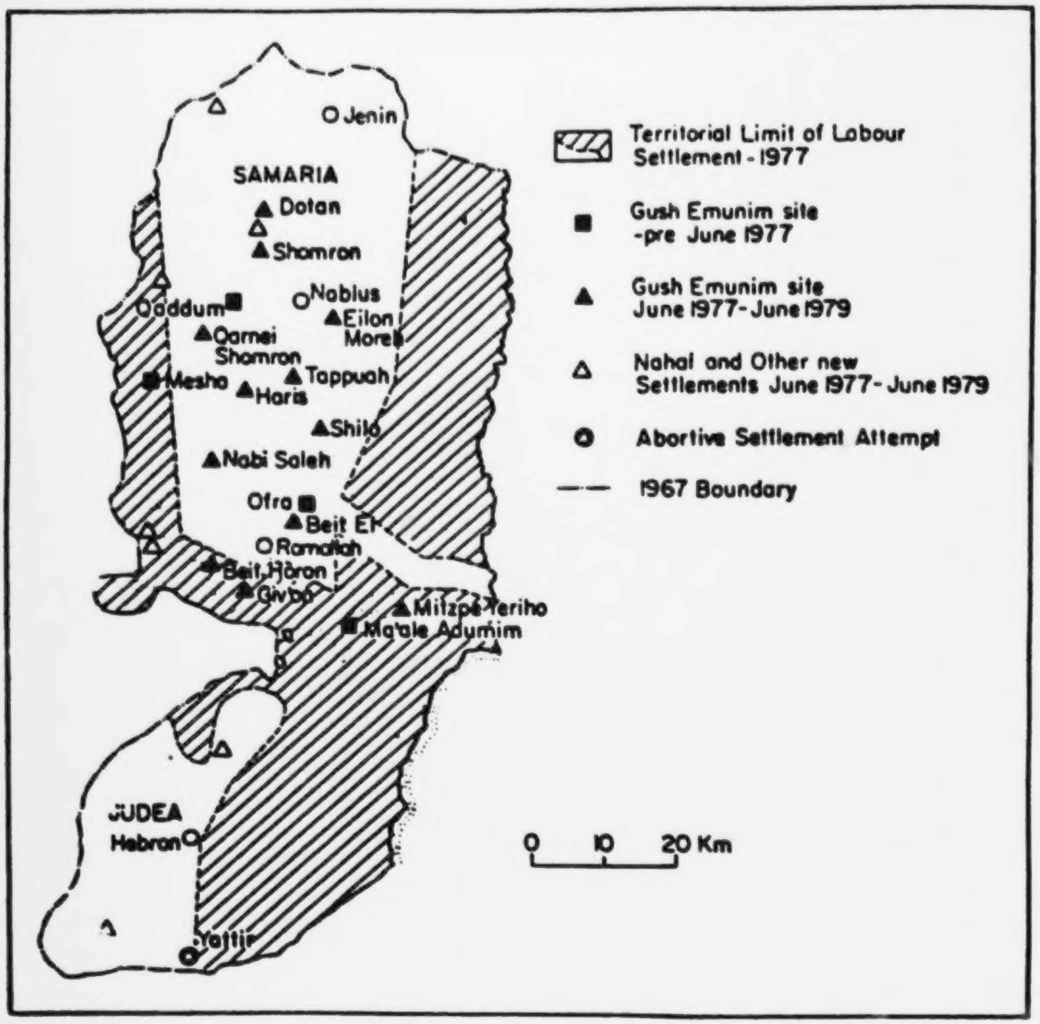

Jenin
SAMARIA
Dotan
Shomron
Nablus
Qaddum
Eilon Moreh
Qarnei Shomron
Mesha
Tappuah
Haris
Shilo
Nabi Saleh
Ofra
Beit El
Ramallah
Beit Horon
Givon
Mitzpe Yeriho
Ma'ale Adumim
JUDEA
Hebron
Yattir
Territorial Limit of Labour Settlement - 1977
Gush Emunim site -pre June 1977
Gush Emunim site June 1977 - June 1979
Nahal and Other new Settlements June 1977 - June 1979
Abortive Settlement Attempt
1967 Boundary
0
10
20 Km

Figure 4. Gush Emunim Settlement Foundations on the West Bank, 1975-1979 (from Harris, 1980:150).

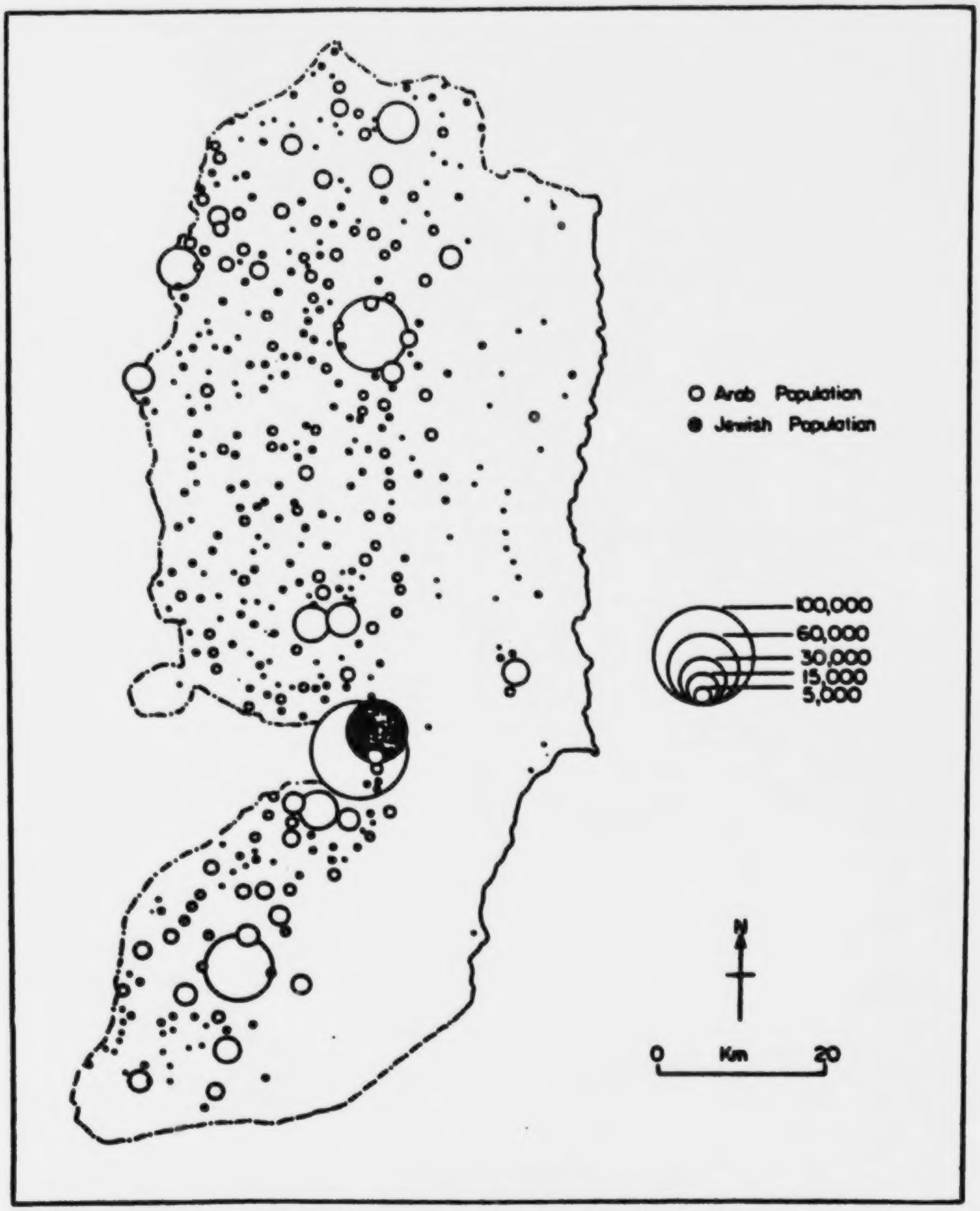

○ Arab Population
● Jewish Population
100,000
60,000
30,000
15,000
5,000
N
0 Km 20

Figure 5. Arab and Jewish populations on the West Bank, 1978. N.B. Jewish settlement sizes slightly exaggerated for visual purposes (Harris, 1980:144).

From this it is clear that even if "autonomy" were to be granted to the Palestinians, they would be allowed to exercise highly circumscribed power only in the limited plots which Israeli administrators had determined really belonged to them! Land belonging to the "State" was to be Israeli ruled and since the Israeli Government had authorized Jews to purchase property in the occupied territories from September 1979 on, land purchased by Jews was also to be Israeli ruled. Here indeed was a peculiar plan.

After the 1973 war, something termed a "functional division" of authority over the West Bank was set forth suggesting that "Israel would retain the geography of the 'administered territories', even if it gave back to Jordan the 'administrative role' over Arab communities" (Tamari, 1980:86). Now there was to be further "functional division", with the geography being retained, and the putative "administrative role" given back to the Palestinians - but only where they could prove they owned the land on which they lived by showing titles that the Israelis accepted as valid.

Once we understand how crucial land ownership redefinition has become and how settlements are to be used to justify Israeli rule, it alters our view of the Israeli settlements. The success and failure of the present programmes of settlement are not to be judged in terms of their demographic representation. It is quite true that, if all Jews in Israel were scattered proportionately throughout the territory of Mandate Palestine, they would now constitute only a bare majority of 60 per cent of the total resident population; and that, given the higher rates of natural increase among Arabs, this would soon yield an Arab majority (the old Zionist "nightmare scenario"). But this is not the issue. The intent behind implanting Jewish settlements on the West Bank (outside Jerusalem) is not to outnumber the Palestinians. It is to take the land, while crowding, isolating and eventually forcing out its people whom it never sought to add to the State. The mechanisms for doing this have been both legal and economic.

The "legal mechanisms" are designed to place as much land under State ownership as quickly as possible for the political reasons outlined above. In an earlier section we showed how land clearly in the "State domain" was immediately transferred to Israeli State ownership on the grounds that Israel was the "successor State" to Jordan. The only problem was that such lands were located chiefly in uncultivated parts of the Jordan Valley, which meant that they were concentrated on relatively undesirable terrain and, given the decision to "tackle" the populated sections of the West Bank, were in the wrong places. The new problem was how to "create" more State land and in the right location. It is here that the amendments to Jordanian law, alluded to earlier, have become indispensable.

One of the earliest to be "amended" was Jordanian Law No. 2 of 1953 dealing with "expropriation of land for public purposes". Like similar legislation in many countries, this law permitted an official authority or corporate body requiring land for a public purpose (for example, a school, a public housing project, a reservoir, etc.) to expropriate the site, after first publishing its request to the Council of Ministers in the Official Gazette. Finally, after all approvals had been obtained, the official body had to provide the Land Registrar with a complete list of all persons with ownership rights and compensations had to be agreed upon. Appeal to the courts was possible if an owner disagreed with the compensation offered.

This law was amended by military orders that (a) transferred all powers and privileges for expropriation formerly vested in the Jordanian Government to a military authority appointed by the area commander; (b) exempted all expropriations undertaken by that military authority from requirements to publish intent, gain approval or submit pertinent documents to the Land Registrar; and (c) transferred all rights of appeal by owners, either over the confiscation itself or the amount of compensation to be paid from the governing court to an "objections committee" (created by Military Order No. 172) which was composed exclusively of Israeli military officers. Later, another amendment to that "law" was added, giving the area commander the "right" to use force to evacuate an owner who refused to leave and to impose a summary punishment of five years in prison and/or an unspecified fine. (This section has been abstracted from Shehadeh and Kuttab, 1980: 101-108, 31). If one adds to this law the fact that by another military order the "taking of land for Jewish settlements" had been defined as a "public purpose", one can see that in theory at least, no privately owned Palestinian land is protected from the expropriation powers of the military area commander. However, appeals were made by Arab communities to the Israeli Supreme Court which, at least in the beginning, sometimes rules to override the most obvious exercises of arbitrary power by the military commander. More recently, however, these appeals have been bypassed by a different approach to expropriation which has been available since 1979 (to be discussed below).

A second important mechanism for "creating" State land is the simple device of announcing that a specific parcel of land is already in State ownership, thereby allowing the military authorities to designate it for construction of a settlement. The representative of the military commander notifies the Mukhtar of the concerned village of this "fact" and asks him to find out whether any individual in his village claims to own the land. As Shehadeh and Kuttab (1980:108) point out:

> "In this way the burden is then placed on the owners to prove their ownership and this they are obliged to do before the Objections Committee ... The Objections Committee (all military officers, it will be

recalled), which has little or no knowledge of the prevailing land law and the law relating to the accepted methods of proving title to land, usually rejects this evidence and decides in favour of expropriating the land. This decision is not subject to any right of appeal."

It was a short step from this system to the variation suddenly "discovered" at the beginning of 1980 - a variation which Israeli critic Dani Rubenstein (in an article that appeared in Davar, 20 March 1981, translated by Israel Shahak) pointed out could have avoided, "had they discovered this system earlier, all the scandals in the Supreme Court in the cases of Bet El, Nabi Saleh, Alon Moreh", etc. According to this account, when the Gush Emunim[19] were trying to establish the settlement of Alon Moreh, just outside Nablus, they discovered what "was already known", namely, that only a small percentage of the land on the West Bank had been fully surveyed and titles to clear ownership established and "duly registered".

Concerning the rest, there are various claims, estimations and registrations but no clear and precise arrangement stating which land belongs to whom since most family and clan lands have never been subdivided.

> "In short: most of the West Bank lands are not arranged and divided between the various owners according to plots. Some of the lands are cultivated and some have buildings on them, so that the owners can prove ownership relatively easily. But much of the 'unorganized' (into lots) land is ... not suitable for cultivation and only a bit of it is cultivated, and not regularly. Some of it serves as pasteur land or has small islands of olive trees, etc."

Although the British Government originally tried to organize a modern cadastral survey and registration system and the Jordanian Government continued with these efforts, in fact, most rights over land are determined by earlier Islamic codes and through customary usage rather than through a Torrens-type registration system.

Taking advantage of this situation, Decree No. 59 of the military regime of the "Judea-Samaria" region was issued. It stated that land with "no ownership claims" is to be considered State land. By no ownership claim was meant any land for which a (Torrens-type) registration could not be produced, showing that the land had been surveyed, subdivided into separate plots and the plots "properly registered". Rubenstein notes that since this order has been in effect, "there is hardly any problem in seizing lands in the West Bank for settlements".

When this new system is coupled with more conventional means, it creates a "field holiday" for confiscations. The enclosing of areas of "military purposes" was, like the "Custodian of Absentee Property" ruse, among the earlier methods used to expropriate land on the West Bank. In conjunction with the regulation that "uncultivated land" reverts to State ownership, it has operated to "reclassify" land from one category to another. The military commander had only to close off land to prohibit its cultivation and then declare the land uncultivated after the crop had spoiled. In cases where abandonment could not be obtained through military enclosures, the Israelis have resorted to more coercive techniques. The recent United Nations Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories of 6 October 1980 (p. 80) concluded that "coercive methods, such as the destruction of crops and the appropriation of water resources, whether engineered by 'accident' or as punishment have resulted in the forced abandonment of land by Palestinians".

Finally, Israel has recently begun to expropriate land for roads designed to connect each and every small Jewish settlement point on the West Bank with all others, in a complex (and as yet unbuilt) web of "highways" which exists chiefly on paper as an excuse for "taking land" by exercise of normal "police power". Every Government has the right to design a circulation system needed for the public good and to construct roads after having condemned the needed right-of-way and paid compensation to the owners. That is not the question. In the recent cases that have been proliferating, it is clear that the condemnation of extremely wide rights-of-way (that often pass through or next to existing Arab villages) is designed chiefly to transfer additional land into State ownership before "autonomy" must be discussed and that the sites for this newly-created State land are selected to subdivide and gerrymander Arab communities and farms into the tiny checkerboard of Gush Emunim, according to their plan of 1976 recommended for fragmenting and policing the Palestinians who refused to leave.

We lack up-to-date figures that could tell us exactly how much land on the West Bank has already been appropriated into the Jewish-owned or State-owned category and therefore "removed" from any possible Palestinian "economy". The only source disclosed so far is a 1979 report by the Ministry of Defence which acknowledges that between June 1967 and 1979, Israel expropriated some 61,000 dunums of land on the West Bank and another 400 in the Gaza Strip for "military and security purposes". Of this land, some two thirds had already been given over to so-called civilian settlements. The same report revealed that since 1967 Israel purchased some 80,000 dunums of privately-owned land (much of it after private purchase was authorized in September 1979). "Custodian of absentee property" lands were said to account for an additional 430,000 dunums in the West Bank and about 8,000 dunums in Gaza. Land that had been registered in Jewish names before the 1948 partition was presumed to add another 30,000 dunums on the West Bank and 800 dunums in Gaza. But the same report ominously suggested that much of the land on the West Bank and in Gaza was unclearly titled. It claimed that 1,530,000 dunums (or most) of West Bank land was of "unclear title", and that another 63,000 dunums in Gaza were similarly without proper title. In fact, after the Ministry of Defence report had specified the Israeli claims over these various types of land that they classified as either state or privately-owned Jewish land (over which presumably Israel intended to exercise administrative control in any autonomy arrangement), there was hardly any land left which Israel was willing to acknowledge really belonged to the Palestinians and over which they could presumably enjoy "home rule". Out of the entire vast area of the West Bank, they conceded only 200,000 dunums as privately-owned by Palestinians; in Gaza, only 253,000 dunums (report summarized and translated into English in Israel and Palestine Monthly Review, No. 79, March 1980, Supplement for November, 1979:6).

The legal mechanisms recounted above have all been designed chiefly to lay physical claim to the occupied areas. In combination and working together with the settlements (many of them mere outpost towers with no permanent population), the fiction of State land is to be used to remove the substance of any concessions Israel might be required to "ratify on paper" to satisfy Egyptian requests for Palestinian autonomy during the interim five-year period foreseen in the Camp David accords. We have already noted Begin's declaration that the five years of so-called autonomy will be transformed into Israeli sovereignty over the entire West Bank and Gaza. Given those five years and using the "laws" of land acquisition already in place, it should be possible for Israel to complete the construction of an entire apparatus that "proves" that all the land actually belongs to Israel and should therefore be annexed to the State.

One problem still remains unresolved, however. What is to be done with the people once they are divested of their land? Short of another war, the only methods available to Israel are policy brutality and economic strangulation. Although both of these tactics have been used since the beginning of the occupation, one can now anticipate an intensification of them. Harsh methods of military rule have already been amply documented (see for example the reports of Amnesty International, the National Lawyers' Guild, the works of Israeli lawyer Felicia Langer, and most recently the report of the United Nations Special Committee, 1980) and, while important, lie somewhat outside the scope of a discussion on settlements. Far more important for our purposes are the mechanisms of economic strangulation.

The key to agricultural strangulation is water. In a region such as Palestine, rainfall is insignificant except in the winter, which means that ground and surface water must be tapped and because it too is not plentiful, husbanded carefully in order to grow anything. The ecology of land use requires wise specialization, with those zones especially blessed with water used for intensive irrigated farming and the dryer slopes used for terrace gardens and especially arbiculture. Olive trees from ancient times were located on dryer fertile soil (since they required little water) and other regions, even less fortunate, were used on a rotational basis for some extensive crops or for grazing.

Because of the need to conserve water for maximum efficiency and to assure that overusage by some would not destroy the crops of neighbours, Jordanian Law No. 31 on the Supervision of Water was promulgated in 1953. The law required the approval of the Manager of the Department of Irrigation and Water for any irrigation scheme. As Shehadeh and Kuttab observe (1980:113), the Israeli military commander has amended this law to deprive Palestinian farmers of their water lifeline. They note that in the Jordanian arrangement,

> "The Department of Irrigation and Water ... is a civil department which will grant permission unless convinced that the irrigation scheme will cause damage to any land or other scheme or road. Military Order No. 158 (in contrast) provides that installations for drawing subterranean water (well, etc.) required a 'license from the Area Commander'."

The "amendment" states specifically that "It shall not be permissible for any person to set up or to assemble or to possess or to operate a water installation unless he has obtained a license from the Area Commander (italics added for emphasis). According to this "amendment", therefore, even irrigation and well installations that were in place and owned by Palestinians prior to 1967 are covered by the regulations. Their owners have to submit applications to the Area Commander for new licenses and "the Commander may refuse the grant any license or amend it or make it conditional ...". (Shehadeh and Kuttab:113).

Therefore, even in the absence of competing needs from Jewish settlements, the Area Commander can "turn off the spigot" and destroy farms whenever he chooses. (Renewal of existing licenses, leases for water rights, etc., are now also required so that even current possession of a right does not assure its continuance). Whenever land has been sought for Jewish settlements, the result has been a foregone conclusion. Deeper wells have been drilled on the Israeli settlements thus draining groundwater and drying out existing Arab wells nearby; permission to sink new wells has been denied to Arabs so affected. The net effects of years of such water deprivation have been documented by Paul Quiring of the Mennonite Central Committee in a study (1977) which reaches conclusions that go far beyond the technical to capture the true impact of the economic strangulation being created by Jewish settlements:

> "For farmers ..., the impact of settlement construction is very real and can easily be measured in terms of money and lost assets. Apart from the political implications of Israel's settlement policy, the settlements produce a ready visible impact on the West Bank indigenous economy. Although the losses vary, with some suffering more than others, the cumulative effect is to dispossess a people from that which they value most highly: their land. People continue to live in their homes, with some perhaps even prospering in their new employment but the economic climate changes and it is no longer possible for the labour force to find work as labourers, they will have nothing to return to in their villages. Like thousands of others from the West Bank, they will be forced to leave their country in search of employment outside. The villagers recognize and resent this process, feeling that those who remain are becoming like museum pieces - quaint and intact, but supported by those outside and with little control over their future."

This indeed is close to the bottom line of the strategy of Israeli settlements in the occupied areas. Thus far, emigration for employment outside has been forced upon many of the younger and best educated Palestinians living under Israeli occupation. Almost every family remaining in the West Bank and many in Gaza have at least one member "abroad", in the Gulf or elsewhere, upon whom they have become increasingly dependent for support. The remittances from abroad indeed are an important subsidy to the economy of the West Bank/Gaza, and therefore indirectly to Israel itself.

But the processes of slow strangulation and emigration, either for employment or through expulsions, are unlikely to alter demographic facts in Palestine quickly enough to satisfy Israeli ambitions. Harris, in his otherwise dispassionate and even occasionally sympathetic account of Israeli settlements, comes to a most disturbing conclusion, almost as an afterthought. Evaluating the prospects for Jewish settlements in the West Bank and Gaza, he concludes that Israel lacks "the demographic capacity to support a credible long-term colonization programme" and that finances will prove an ultimate stumbling block. In his words, "a more pointed threat to the whole colonization stems from increasing chaos in the grossly overheated Israeli economy which, quite simply, may not be able to sustain extended settlement construction ..." (1980:165)[17] He then goes on to say that he senses that what the Israelis are therefore really counting on is that,

> "The unfavourable trend in the internal demographic balance will be offset by accelerated out-migration from the West Bank, perhaps accentuated by another round of hostilities." (Harris, 1980:170).

In such a round hostilities, made more rather than less likely by recent cease-fires, the Palestinians in the West Bank are likely to bear the brunt since, under cover of such hostilities, an attempt will undoubtedly be made to drive them finally from their homes. In this scenario, the true meaning of the 127 Jewish settlements now in place or under construction in the occupied areas will become tragically clear. They will constitute the armed forts, placed in and around areas of Palestinian concentration that will be used to help subdue resistance and herd more Palestinian refugees to the next cease-fire line in Israel's expansionary search for Eretz Israel. But this time they will have overstepped their capacity.

Notes

1/ "The recently established Beit Haarava is one of six settlements planned by the Likud Government in the Jericho area with the explicit purpose of 'blocking' the area and preventing an Alignment government ... According to the Allon Plan, a 13 km-wide strip called the Jericho Corridor would be free of Israeli settlements. Until 1977, when the Alignment lost power, (they) ... were careful not to settle the Corridor. The creation of such a corridor was intended, firstly, to serve as a trump card in future negotiations with Jordan and, secondly, to leave Jordan a direct passage to West Bank areas due to be returned to Jordan. Of the six settlements projected for the Jericho Corridor, three have already been established." (See Israel and Palestine Monthly Review, No. 83, Supplement, October 1980, p. 3.)

2/ "By 1953 a 'Development Authority', (specifically set up for the purpose) had purchased ... 2,373,677 dunums (of land) from the Custodian" which it in turn sold to the Jewish National Fund. The latter, in turn, "leased" the property "to groups and individuals who in most cases had already been there for years. By this legal fiction the state avoided ... the censure that might have accrued on direction confiscation" (Ruedy, 1971:138).

3/ Property "leased from" the Custodian of Absentee Property is exempted, by Military Order 293, from the protective provisions of the Jordanian rent control law, thus denying protection to Palestinians "renting" from the Custodian who may "as is often the case, merely hold the share of the property belonging to ... a sister or brother of the owner (occupants) of other shares in the household, who happened to be outside the West Bank at the time when the 1967 war took place". (Quoted from Shahadeh and Kuttab, 1980:111.)

4/ Islamic Law, adapted to societies living in areas bordered by deserts, had always made provisions for the ownership of fringe areas which, through the application of human labour, were brought into cultivation. Customary law conferred use rights on the land to those working it.

5/ It is amazing to read the carefully researched and dispassionate study of Harris, 1980, and realize that, although his 200-page book is subtitled "Israeli Settlement in the West Bank, the Golan and Gaza-Sinai, 1967-1980", he devotes almost no direct attention to, nor does he have a separate chapter on the "settlement" of the Jerusalem region.

6/ According to an article published in Zu Haderekh, 20 and 27 August (translated and reproduced in Israel and Palestine Monthly Review, December 1980, Supplement 11-12), by the end of 1980, about 130,000 dunums of land had been expropriated in the Jerusalem-Ramallah-Bireh corridor, and close to 80,000 Jewish settlers were living in over 20 "settlements" that contained some 27,000 dwelling units. However, I doubt that this total includes Jews living in the "old" city of Jerusalem itself. More ominously, the article reports that an additional 45,000 dwelling units were already planned for construction in the same area, giving evidence of the scale intended for the immediate future.

7/ This information is taken from an article by Yehiel Limor which appeared in the 6 August 1976 issue of Ma'ariv, as translated by Israel Shahak and reprinted in MERIP Reports, August, 1977:20-21.

8/ The full plan, as it is now being revealed, dates from 1979 although nuclei had already appeared. We thus have October 1979 records of Israeli cabinet decisions to allocate more land to these settlements, including 2,000 dunums to Efrat and more to Ma'ale Adumim (see Israel and Palestine Monthly Review, No. 79, March 1980 with a Supplement for October 1979, p. 3); newspaper accounts of the inauguration of the first "urban neighbourhood" at Efrat, for which 6,000 dwelling units had already been built at an investment of 26 million Israeli pounds (see Israel and Palestine Monthly Review, No. 82, September 1980, Supplement for August 1980, p. 11); an account of the Joint Ministerial and Jewish Agency Settlement Committee meeting of 9 December 1980, approving the establishment of the city at Givon (Israel and Palestine Monthly Review, No. 83, December, 1980, Supplement for December 1980, p. 20). All of these were in line with the plan Ariel Sharon presented to the Cabinet at the end of 1979 which called for 15 new settlements on the West Bank during 1980 alone, as well as the establishment of the large "settlement belt" around Jerusalem, so as to "ensure the Jewish character of the capital, in the face of dense Arab construction in that area". (Cited and quoted in a newspaper account translated into English and published in Israel and Palestine Monthly Review, No. 79, March 1980, Supplement for November 1979, p. 6).

9/ According to my best estimates (Abu-Lughod, 1980), some 300,000 Palestinians crossed the Jordan River during and immediately after the 1967 war, of whom more than half were drawn from the hill regions of the West Bank.

10/ Vacancy rates ran 50 per cent and "settlers" had to be offered reduced rents, interest-free loans and, finally, had to be allowed to occupy the new units only a few days a week or a few months a year while still retaining their rights to their "real" homes elsewhere. These problems have persisted since, as we shall see, Israel lacks the population needed to "settle" the enormous territory she has swallowed.

11/ See Statistical Abstract of Israel, 1980:34-35, tables II/3, 4 for population information. See also Zureik, 1979:108-111. The sparsely populated Negev was the other district which in 1948 had an Arab majority, but this population, being chiefly nomadic, was more easily dislodged and "relocated".

12/ Abed, a Christian Palestinian from the village of Mi'ilya, which was being decimated by land confiscation at the time, noted ironically that the phrase "to spray" implied that there was some sort of pestilence in Galilee and acknowledged that "we are that pestilence".

13/ The figures in the text come from Sharon's New York Times interview of 19 February 1981. As recently as early 1976, according to Yekiel Admoni, then Director-General of the Zionist Organization's Settlement Division, there were only 17 settlements in the Jordan Valley of which 13 were permanent, plus another 3 urban settlements (Etzion Block) and 2 "footholds" in "Judea-Samaria", i.e., the West Bank hill region (see MERIP Report 59, 1977, but especially p. 19). According to this same report by Admoni, some 2.6 billion Israeli Pounds (approximately $US 350 million) had been spent on all settlements "in the territories" (including Gaza) between 1967 and 1976. This was less than the amount earmarked for settlement expenditure in fiscal year 1980 alone (Israeli and Palestine Monthly Review, No. 79, Supplement for December 1979:11). By the end of 1979, however, there were at least 7,800 Jewish settlers in the West Bank, of whom about half were in the Jordan Valley, the other half in the "Judea-Samaria" hill region. After that, the number of settlers spurted to 10,000 in 44 settlements by December 1979 to over 17,000 in 68 settlements in November 1980, to 20,000 by February 1981 and, by June 1981, the goal of 25,000 settlers in 85 settlements on the West Bank had been reached according to available Israeli census and newspaper reports.

14/ There is no way to verify the exact number of settlements because they are, for the most part, tiny and "grouped" into so-called "blocks", divided or collapsed as suits the discussion. Furthermore, Jerusalem hinterlands are sometimes included, sometimes forgotten. Nor is there any way to verify the exact number of settlers because recently, the Government of Israel has begun to present its targets and totals in terms of "x number of families" without specifying average family size. When government officials report the number of settlers, they tend to multiply the number of families by a high figure of 4-5; and yet, observers report seeing only young single males in many of the settlements. The Israeli census now enumerates Jewish settlers in the occupied territories separately. These totals fall far short of official pronouncements, in part because some of the so-called settlers have more permanent abodes within Israel and are presumably enumerated at their regular place of residence.

15/ October 1978 English translation, mimeo., of the Master Plan for the Development of Settlement in Judea and Samaria. It is significant that, in the original version, underlining emphasizes the first phrase, namely, that settlements will be restricted to State land. I have added the second set of italics to call the readers' attention to the fact that private land was to be defined in extremely stringent terms as being registered in a manner satisfactory to the military commander.

16/ The Gush Emunim was founded in early 1974 by young "whole land of Israel" zealots of the National Religious Party who have been used as "shock troops" for opening new Palestinian areas for Jewish settlements. Their tactic is to "squat" until their right to settle is given official sanction. Flushed with their early success in Hebron (which resulted in the Qiryat Arba settlement), they soon moved into the heart of "Samaria", gaining parliamentary "approval" for numerous settlements in 1977-1978. Finally, in March 1979 Gush activists scored their most sensational coup by gaining official recognition of their settlement of Alon Moreh, just outside Nablus. As Harris notes, with this "the last vestige of geographic constraint was overthrown" (Harris, 1980:135-137, 149). The October 1979 Supplement to Israel and Palestine Monthly Review, No. 79, March 1980, contains a translation from the Hebrew press reporting that the Gush Emunim "set up 31 encampments during the night of 14 October in various parts of the West Bank. They (the Gush) described them as 'not being settlements but as measures aimed at foiling the establishment of a Palestinian State'" (p. 3).

17/ It would be hard to conceive of any economy capable of sustaining the grandiose plans set forth. On 15 November 1979, Begin's Ministerial Committee for Settlement Affairs accepted the Ministry of Defence Plan for settlements with an estimated price tag of 100 billion Israeli pounds (see Israel and Palestine Monthly Review, No. 79, March 1980, Supplement for November 1979:7).

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C. POLITICAL ABORTICIDE: ISRAEL'S PALESTINIAN POLICY

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Israeli violations of the human rights of the Palestinian people living in the occupied territories have been persistent, varied and indiscriminate. There is no evidence to indicate that they are temporary or sporadic aberrations likely to diminish or cease. On the contrary, there is sufficient ground to believe that Israel's disregard for Palestinian human rights is a necessary outcome of its outlook and a strategic commitment in its perceived relationship to the Palestinian people. This paper will seek to demonstrate this fact, to analyse its causes, and to propose international measures to enhance the effectiveness of attempts to safeguard the human rights of the Palestinian people.

I. Israeli violations

It has been said that "the issue of Palestinian rights cannot be properly addressed by cataloguing an endless series of violations: a deeper understanding of the nature of the state of Israel is necessary."[1] It is true that in order to be able to deal effectively with such violations, we need to understand the aims and motivations of their perpetrators. In the following section of this paper, we will seek to undertake that analysis. In this section our primary concern will be the identification of acts systematically practised by the Israeli occupation authorities and the Israeli Government, which constitute violations of internationally recognized human rights as defined by the main international conventions pertaining to the subject.[2]

There are very few provisions in the various international covenants on human rights which Israel has not violated repeatedly in its treatment of the population of the occupied territories. The following account is not a catalogue but an illustration of the scope and range of these violations.

1. Willful murder of civilians: Unarmed Palestinian residents of the occupied territories have been killed by elements of the Israeli armed forces in situations where no military necessity existed, and where there were no political demonstrations or gatherings or any activities which might be even remotely construed as disturbance to public order. In one case, two unarmed Palestinian youths, Hussein Ali of Shu'fat and Musa Khalil Tulsha of Ramallah "were short dead in cold blood by an Israeli sergeant and their bodies sprayed with petrol and partially burnt simply because they had nearly collided with the sergeant's car while driving on a secondary road in the Latroun Area".[3] Many other Palestinians, especially students, have been killed and wounded while participating in unarmed peaceful demonstrations throughout the period of Israeli occupation.

2. Torture of detainees and inhuman treatment of prisoners: Various international inquiries confirm that Israeli torture is widespread, systematic and appears to be sanctioned as deliberate state policy, as The Sunday Times of London concluded in its June 1977 report on the use of torture in Israeli prisons. Amnesty International, the National Lawyers' Guild (United States), the Israeli League for Human and Civil Rights, and the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories all presented evidence to this effect.[4]

An early study of the inhuman treatment of Palestinian prisoners in Israeli prisons and detention camps, based on the personal testimony of 62 former inmates, listed the types of physical torture used by Israeli interrogators and jailers as follows:[5]

- Burning various parts of the body with lighted cigarettes and red-hot irons;
- Injection of solutions containing chemicals of nerve irritants;
- Extraction of teeth without anaesthetics;
- Pulling out of finger- and toe-nails;
- Suspension from the ceiling by the wrist;
- Submerging in a pool of water through which an electric current is passed;
- Electric shocks to sensitive parts of the body such as the genitals and the rectum;
- Flogging and whipping;
- Submerging in dirty water for periods up to four days;
- Confinement in a cell blindfolded, with dogs to terrorize the prisoner;
- Beating with iron pipes;
- Insertion of a lighted candle in the nose;
- Pouring urine over the head and the body;

- Application of nitric acid to lips and other sensitive organs;
- Forcing the prisoner to walk on fire with bare feet;
- Burial alive in the sand up to the neck.

The testimony of the former inmates confirms that prisoners are also subjected to a variety of psychological torture including "simulated homosexual assault", threats of arrest and molestation of female members of the family, sexual taunting by Israeli women soldiers, firing between the feet of blindfolded detainees, and showing prisoners open graves and telling them that they are for them, etc.[6]

3. Deportation and expulsion: In addition to mass evictions which took place during and immediately after the war of 1967, as the expulsion of the inhabitants of Aqbat Jaber refugee camp near Jericho, Israel continued to expel individuals and small groups throughout the period of the occupation.[7] There are no indications that this practice will come to an end as the Israeli authorities insist on the right to deport inhabitants from the occupied territories, clear and specific prohibitions of such acts notwithstanding. Injunctions by the United Nations against the expulsion of particular individuals have been ignored by Israel as happened in the case of the mayors of Hebron and Halhoul and Hebron's religious judge in 1980.

In addition to expulsion to areas outside the occupied territories, Israel has practiced forceful eviction and evacuation of groups of residents from one region to another. Refugees from the Gaza Strip have been forced to leave their camps to various parts of the West Bank and Sinai.

4. Political imprisonment and administrative detention: The United Nations Special Committee to Investigate Israeli Practice Affecting the Human Rights of the Population of the Occupied Territories reported that in 1978, for example, there were 1,192 arrests and stated that "this is a minimum figure since it is based on the Israeli press which is subject to censorship". It added that the figure is clearly an underestimate also because it does not include the arrest of groups whose size is not exactly known as when the arrest of "several" or a "large group" is reported. The Committee found more than 20 reports of such group arrests.[8]

Often, the individuals arrested are not charged with any offences and are detained for long periods without trial. The most infamous case was the arrest and administrative detention of Mr. Tayseer Aruri, Physics instructor at Bir Zeit University, for 45 months without charges or trial. No Palestinian living under occupation is safe from such harassment since it is carried out by orders of the military governor of a district who does not have to show cause for the initial arrest or the renewal of the detention.

Community leaders are frequently placed under "town arrest" where they are forbidden to leave the towns in which they reside, an act which, in addition to violating their right to travel, restricts their ability to serve the communities or even to earn a living for their families. When I left the West Bank in June of this year, a large number of West Bank and Gaza personalities were under this type of confinement including Karim Khalaf (mayor of Ramallah), Ibrahim Suleiman (mayor of Bireh), Samiha Khalil (president of In'ash Al-Usra Women's Society in Bireh), Ma'mun Sayyed (editor of Al-Fajr newspaper), Akram Haniyyeh (editor of Al-Sha'b newspaper), and Ibrahim Dakkak (president of the West Bank Engineers Union). Again, such punishment is carried out by order of the military governor without charge or trial and it can be extended indefinitely.

5. Confiscation of land and water resources: The story of the State of Israel is, in its simplest form, the story of unceasing armed robbery of Palestinian land. Even after the proclamation of the State in 1948, Israel continued and still continues to rob Palestinians who hold its citizenship in the Galilee and the Negev of their land.

In the territories occupied in 1967, the seizure of public and private land for the exclusive use of Israeli Jews, military and civilian, is practically a daily affair. It is a well-known fact that about one third of the total area of the West Bank has already been confiscated. Much of this land is being used for the purpose of settling civilian Jewish population in the occupied territories.[9]

In addition to depriving the Palestinians living under occupation of much of their land, the occupation authorities are making it more difficult for them to survive on the remaining land by prohibiting the exploitation and development of underground water resources in order to ensure its availability to Israeli users in the coastal region and in the new settlements. They also ration the use of water for irrigation purposes in the two main agricultural regions in the occupied territories: the Jordan River Valley and the Gaza Strip. It has diverted existing water supplies, wells and springs previously available to Arab towns and villages, to Israeli settlements. The United Nations Committee on the Exercise of the Inalienable Rights of the Palestinian People reported in 1980 that:

> "As a result of Israeli drilling ... Palestinian wells and springs are being depleted and West Bank water is being drained off for the Israeli settlements ..."[10]

The Committee further stated that the inhabitants of the village of Awja just north of Jericho "protested to the Israeli authorities that their agricultural economy is being ruined because the Israeli wells and water network supplying the nearby Jewish settlements have drastically depleted the village's water resources". The village "lost over 1,300 dunums of land planted with bananas and 150 dunums planted with citrus fruit".[11/] Other villages in the Jordan Valley suffer from similar conditions. The Committee estimated that 15 per cent of the water resources of the West Bank have been diverted for the benefit of Jewish settlers amounting to 1 per cent of the population.

It is difficult for the statistics to convey the reality on the ground. I have visited Awja village and other Arab communities in the Jordan Valley and saw the shocking consequences of such "secondary genocide". An Israeli settlement sank a pump a few feet from the source of the spring on which Awja subsisted as a farming community thus causing the spring to dry up and the citrus groves to die. In place of orange trees, dead sticks dot the landscape. Vegetable gardens were parched under the hot sun of the Valley and the villagers did not even have adequate water for domestic use. Life itself was becoming impossible in the village.

6. The demolition of houses: Immediately after the cease-fire in 1967, the Israeli occupation authorities razed whole Palestinian villages. The most notorious examples are the three neighbouring villages of Immuas, Yalu and Beit Nuba in the Latroun Salient, on whose locations the Israelis constructed "Canada Park" in an attempt to erase all evidence of the villages' previous existence.

The practice of demolishing and boarding up homes never ceased. It is a frequent punishment for suspected acts of resistance to the occupation. The homes of persons so suspected are usually dynamited upon arrest and before the trial takes place. Extensive damage is often caused to surrounding structures. Frequently, demolished houses are not owned but only rented by the suspect or a member of his/her family. A family whose home is demolished is not permitted to rebuild it.

7. Collective punishment: Total and partial curfews are a frequent punishment of the entire population of cities, villages, and refugee camps. A whole town or district is often punished by forbidding it to export its produce to Jordan or to travel across the Jordan River bridges, or to receive visitors. Populations of whole towns and villages are made to assemble in fields or town squares and to stand or squat for hours in the rain or the sun. Frequently, military checkpoints are placed on the roads to Jerusalem and people are denied access to Muslim holy places for the Friday prayers.

Such collective penalties are usually inflicted for minor individual acts such as the throwing of a stone by a child at a passing vehicle. Frequently, such punishment as curfews are accompanied by the other forms of harassment like house searches and mass arrests. In 1976, I lived through two curfews on the city of Ramallah during which Israeli patrols roamed the streets and fired live bullets through residential areas day and night to terrorize children and make it difficult for people to sleep. A local physician informed me that, after the curfew was lifted, he visited areas of army encampments in the city and found many signs of drug use by Israeli soldiers.

8. Cultural strangulation: The Israeli occupation authorities have been particularly severe on educational and cultural institutions and activities. In six years of work at Bir Zeit University and the Council for Higher Education, I have witnessed an unending series of harassment including the almost daily arrest and interrogation of students, employees and faculty members; denial of permission to import Arabic scientific and scholarly publications for university libraries; denial of permission to faculty members to travel abroad to participate in scientific conferences; censorship of publications; closures of schools and universities; curfews and closing roads leading to campuses; armed intrusions into colleges and universities resulting in injuries to persons and damage to property.

The Council for Higher Education has been forbidden by the military governor from convening its general assembly and two members of its executive committee cannot participate in its work because they are under "town arrest". The word "Palestine" was expunged from all textbooks used in the schools and methodically replaced by "Israel". A long list of books, mostly classics of Arabic literature, have been blacklisted and libraries are forbidden to possess them.

Palestinian Arab historic sites have been bulldozed or pillaged. Even Palestinian folklore, traditional costumes and foods are being robbed and marketed abroad as Israeli creations. The Arabic names of towns, hills, and streets are being erased and changed to Hebrew names. UNESCO stated a fact when it concluded that "the Israeli authorities [are] adopting policies in Gaza and the West Bank designed to paralyze Palestinian culture".[12/]

The preceding sketch of Israeli violations of Palestinian human rights in the occupied territories is not, nor is it intended to be, a comprehensive inventory of such violations. That would be far beyond the scope of this paper. The study, cited earlier, of Israeli violations of human rights in the early years of the occupation listed a total of 304 contraventions of the provisions of the Hague Convention, the London Charter and the Geneva Convention in the case of 62 Arab prisoners alone.[13/] There is no question that a serious and systematic breach of international laws and conventions has been and is being continually committed by Israel against the Palestinian people. In their variety, severity and persistent Israeli violations of Palestinian human rights amount to a reign of terror against a captive community.

Israeli practices against the Palestinian people have caused a sense of revulsion even in Israelis and other Jews, some of whom were leading participants in the creation of the Jewish State. Moshe Sharett, one time Foreign Minister and Prime Minister of Israel, recalling a particular act of Israeli terrorism, wrote in his diaries:

> "All this must bring about revulsion in the sense of justice and honesty in public opinion; it must make the State appear in the eyes of the world as a savage state that does not recognize the principles of justice as they have been established and accepted by contemporary society."[14]

Another writer asked: "Can it be that our [Jewish] rightness stemmed from our weakness, and that having gained strength, we have discarded justice as useless?"[15] An Israeli writer expressed similar sentiments: "When I read Simon de Beauvoir's remark that during the Algerian struggle for independence, she felt a stranger in her native country, France, and was ashamed of French colonial policy, I felt compassion. I never imagined that I might one day experience the same emotion and so strongly disapprove of Israel's Arab policy, that I would feel estranged and at the same time ashamed that this would happen, and is happening in the land of my choice".[16]

On the international level, the fact that the United Nations Commission on Human Rights found it necessary to pass a resolution which, in describing Israeli violations of human rights, went as far as to categorize them as "war crimes and an affront to humanity"[17] is testimony to the degeneration of Israeli behaviour. The fact that the General Assembly found it necessary to adopt by large majorities no less than 13 resolutions in three years (1977-1979) condemning Israeli violations of human rights in the occupied territories testifies to Israel's persistent disregard for world opinion.

II. Israeli motivation

What is it that impels the State of Israel to be a "savage state"? What is it that drives Israel to behave in a manner which causes an increasing number of Israelis to "feel estranged and at the same time ashamed" in the land of their choice? Why does Israel behave in a manner that is "an affront to humanity"?

To comprehend Israel's compulsion to terrorism against the Palestinian people (in 1948 and 1967, inside and outside the occupied territories), we must understand its aims and motivations. As it was stated earlier, the issue of Palestinian rights requires an understanding of the nature of the State of Israel. And the "state of Israel is a settler colony created by some European Jews whose dream it was to found an exclusive Jewish colony in Palestine".[18] As the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories stated:

> "Israel's policy in the occupied territories is based on the so-called 'homeland' doctrine which envisages a mono-religious (Jewish) State established on territory that includes those territories occupied by Israel in June 1967."[19]

Since the Palestinian Arab population "do not form part of the religious group in whose name the Government of Israel claims the right to establish itself, these inhabitants have no rights vis-à-vis the governing authorities".[19] This is the crux of the matter.

The presence of a large number of "natives" in the coveted land and their strong attachment to it[20] were the greatest frustrations of the Zionist ambition. War in 1947-1949 gave the Zionists their first grand opportunity to use violence to expropriate the land and expel the population.

The 1967 conquest of the remainder of Palestine came "booby trapped". The Palestinian population of the West Bank and the Gaza Strip (or most of them) continued to cling to their lands and homes, thus making outright annexation a dilemma for Zionist Israel, committed as it is to the racialist "homeland doctrine" of a mono-religious Jewish colony. More seriously, the survival of a viable Palestinian community in Palestinian territory was perceived to be a forceful check on the Zionist dream and a big obstacle in the way of the Israeli ambition. From the vantage of Israeli policy, therefore, the Palestinian community had to be destroyed. Hence the systematic and utter disregard for the human and other rights of the Palestinian people by the State of Israel.

Furthermore, the two post-1967 developments explain the rising and intensifying crescendo of Israeli terrorism against the Palestinian people in the occupied territories and elsewhere:

1. The rise of an organized, articulate Palestinian national movement (the Palestine Liberation Organization) to lead the Palestinian struggle for national liberation. This fact enhanced the visibility of Palestinian nationhood and gave the Palestinian people the socio-political structures which facilitated its involvement as direct and active participants in the determination of its future. It laid to rest, once and for all, the Israeli myth about the non-existence of the Palestinian people.

2. The liquidation of colonialism in Asia and Africa and the consequent rectification of the previous imbalance in the world community in favour of the oppressed peoples. This fact led to increasing international recognition of the true nature of the Middle East conflict and to increasing and more explicit support for measures seeking to redress the grave injustice suffered by the Palestinian people for so long, including the right of the Palestinians to self-determination and political independence in their ancestral homeland.

Given Israel's disregard for justice in its dealings with the Palestinian people, and given its long-standing contempt for public opinion which is not compatible with its policy, these two developments alone would not have had much impact on Israeli behaviour. But the existence of a Palestinian community inside Palestine gave a concrete material basis to the idea of Palestinian nationhood and independence. The international consensus in support of Palestinian rights and "the actual availability of a relatively viable community and a credible site for its independent existence ... the idea and the physical setting for its embodiment, rendered the possibility of Palestinian statehood eminently presentable".[21]

Israel, unable to convince the world community to sanction its racist-colonialist behaviour, and compelled by the logic of its illegitimate aspirations to be a savage State, faced increasing isolation in the world and utterly failed in its diplomatic offensive against the Palestinian people. The only course left to it, compatible with its aggressive intentions, was to demolish the material foundations of Palestinian nationhood. Through continuous air, sea and land attacks on the Palestinian community in Lebanon and the campaign of assassination of Palestinian diplomats in Europe as well as attempted assassinations of community leaders in the occupied territories, and through continuous harassment of the Palestinian community at home, Israel seeks "to discredit our dream and to break our backs in the vain hope that we will not have the will or the stamina to stand upright".[21] That is why Israel's violations of the rights of the Palestinian people go and must go beyond the sporadic harassment of a despotic regime and be a methodic genocidal onslaught to destroy a human society.

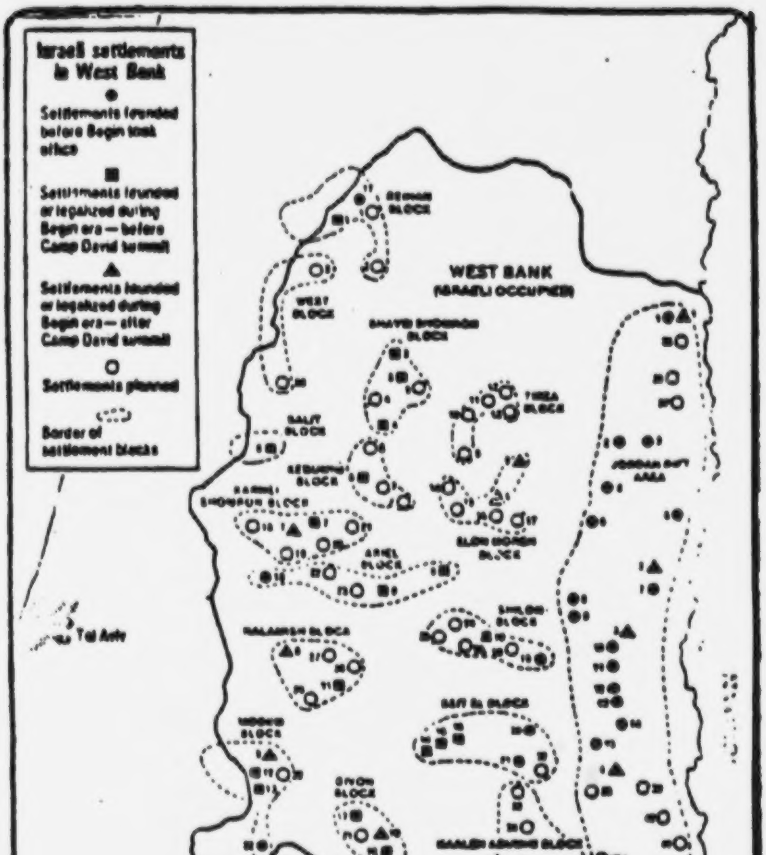
To demonstrate the validity of this analysis, it is sufficient to use as illustration Israel's policy on land seizure and settlement and its policy on deportation.

As to the confiscation of land, it is clear that Israel's intention is to break up the geographic continuity of the West Bank and to disrupt its demographic cohesion in order to render it unsuitable as a possible site for an independent "non-Jewish" community. Israeli supporters of the settlement programme never tire of asserting publicly this political motivation by saying that the settlements are meant to scramble the egg so that no one can unscramble it in the future. The settlement plan of the World Zionist Organization (the Drobles Plan, 1979-1983) makes it clear, as the map on the following page indicates, that the intention is the create blocks of Jewish settlements "both between the minorities [i.e., Arab] population and around it"[22] in order to isolate the Arab population of Palestine from the Arab people in neighbouring States and to fragment the West Bank and its population. If that purpose is accomplished, Israel hopes the idea of Palestinian nationhood is vitiated and the possibility of its independence is aborted. The Palestinian struggle for freedom and the international support for it would become irrelevant.

Concerning Israel's policy of deportation, it is a demonstrable fact that the main targets of that policy have been the sort of people who are typically the custodians of their country's future and the main agents of its progress and prosperity. Of the 167 deportees listed in a study which identified them by profession, 42 were educators (teachers, principals and education inspectors), 37 were students, and 26 were professional people.[23]

One of the most monstrous achievements of the Zionist State is that it has generated and supported domestic public opinion in favour of its genocidal policy towards the Palestinian people. It has done so by concealing from its own people the atrocities it commits daily against the Palestinian people inside and outside occupied Palestine by picturing them as a war on terrorism, and by maintaining that the Palestinian issue is a fabricated grievance. Even now, Israeli officials advance the unrepentant view that the Palestine question is "one of the phoniest issues in modern political history". Yehuda Blum, Israeli Ambassador to the United Nations and the author of this statement, continues: "We are being told day in and day out that the Palestinian Arabs are a nation deprived of self-determination, sovereignty and national independence, a homeless people".[24] The consequence is that an Israeli professor from Haifa University writes an article about Israeli troubles, touches on inflation, labour unrest, emigration, corruption, international isolation, cultural cleavages, and says not one word about the occupied territories or the tragic plight of their people.[25]

The State of Israel's policy not only engenders this callous unconcern about a human tragedy largely of their making but in fact it has encouraged attitudes in favour of repression. An Israeli writer said that Zionist opinion-makers


Israeli settlements in West Bank
Settlements founded before Begin took office
Settlements founded or legalized during Begin era — before Camp David summit
Settlements founded or legalized during Begin era — after Camp David summit
Settlements planned
Border of settlement blocks
WEST BANK
(ISRAELI OCCUPIED)
REIHAN BLOCK
WEST BLOCK
SALIT BLOCK
KEDUMIM BLOCK
KARNEI SHOMRON BLOCK
ARIEL BLOCK
TIRZA BLOCK
ELON MOREH BLOCK
SHILOH BLOCK
JORDAN RIFT AREA
KALANSUA BLOCK
MODIIN BLOCK
OFRA BLOCK
BEIT EL BLOCK
MAALEH ADUMIM BLOCK
Jerusalem
Tel Aviv
ISRAEL
ETZION BLOCK
NORTH DEAD SEA AREA
JUDEA DESERT
WEST MOUNT HEBRON AREA
YATIR BLOCK
Dead Sea

Source: 'Drobles plan' map and Monitor research

Map from Matityahu Drobles, Master Plan for the Development of Settlement in Judea and Samaria, 1979-1983. Jerusalem, World Zionist Organization, October 1978 (mimeographed).

used the tragedy of Jews in Europe in a way which "has created in the Israeli consciousness a peculiar moral blindness, expressed by double moral standards. Because 'the world' was always presented as out to get us, we ourselves are exempted from any moral consideration in relating to it".[26] Professor Israel Shahak of Hebrew University in Jerusalem and the president of the Israeli League for Human and Civil Rights warned of an increasing tendency to use the Bible to justify Israeli oppression. Writing about what he called "biblically-justified genocide", he said that

> "... what has particularly increased, and can become very dangerous in the future, is the use of biblical examples of mass extermination in order to 'justify' at some future time ... a very cruel war which will cause millions of losses to the peoples of the enemy, and from which they could not recover for many years."[27]

Professor Shahak says that increasing publicity is made in Israel for historic precedents of mass extermination of enemies of the Jewish people. He added:

> "It has been the custom in the Gaza Strip in recent years for an 'education officer' to preach to the newly arriving units of the Israeli Army and to explain to them that the Palestinians in Gaza are 'really' like the ancient Amalekites, and apparently the custom is spreading in other places in the occupied territories, too."[28]

He says that the extermination of the Canaanites is used "in order to accustom Israeli Jewish opinion to possible acts of terror which may - so many respectable Israeli figures say - in the future be directed against Arabs". He gives examples of proposals actually made by "respectable Israeli figures". He wrote that,

> "... a strategic expert, B. Amidrov, solemnly proposed in the early seventies that Israel should bomb the Aswan Dam and drown the Egyptians, and a respected professor of political science at the Hebrew University of Jerusalem, Shlomo Aharonson, proposed dropping an Israeli hydrogen bomb near the shores of Lebanon in order to wipe out all the Palestinians there."[28]

The degree to which Israeli opinion has been conditioned to such ideas is that "both expressed these ideas in the rational and respected Israeli newspaper, Ha'aretz, and without losing any respectability, and of course the various proposals to expel 'all the Arabs' have become very common in the 1980's".[28] It is to the dubious credit of the Zionist State that it has made acts which are an "affront to humanity" seem noble deeds to its people.

The State of Israel is waging total war against the Palestinian people. Therefore, it sees any promise of justice to them as a danger to its survival. That is why Israeli terrorism is a state policy; is not limited to a particular extremist political party or regime or leader. That is why it goes virtually unopposed by broad segments of Zionist public opinion; and that is why it is directed at the Palestinian people indiscriminately. Finally, that is why Israel cannot be persuaded to abandon its policy of totalitarian repression and must be coerced to do so.

III. Proposed measures

There was a time when both the Palestinian Arabs and the Zionists made mutually exclusive claims to Palestine. The Palestinians totally rejected the consequences of the Zionist colonial invasion of their country and could envision no future for it except as an Arab State. The Zionists adhered to their concept of mono-religious colony. The Palestinian people have in recent years demonstrated sufficient vision to foresee the possibility of Arab-Jewish peaceful coexistence. The debate within the Palestinian camps now centers around the form this existence is to take: a non-sectarian State where Arab and Jew can live as co-citizens of a democratic State, or a partitioned Palestine where an Israeli State lives alongside an independent Palestinian State.

The Zionists unfortunately have not outgrown their dangerous and anachronistic dream which requires them to wage a war of extermination against the Palestinian people. They have not yet joined the rest of humanity in discarding the ideology of a master race privileged with superior rights. We still read in Israeli newspapers that "The Arabs must know that there is a master here, the Jewish people. It rules over Eretz Israel ... The Arabs are temporary dwellers who happen to live in this country. There are commandments in the Bible concerning such temporary dwellers and we should act accordingly".[29]

The persistence of this type of mentality, translated by Israeli policy into daily aggression against the Palestinian people, not only denies legitimate Palestinian national rights and flouts world opinion but also jeopardizes the prospects of peace in the Middle East. Israel must not be allowed to continue to veto peace by waging a war of aggression against the Palestinian people. If the logic of its ambitions impel it to so behave, the international community must compel it to behave otherwise. For that reason it is essential that the world community, if it is to enhance its effectiveness in safeguarding legitimate Palestinian rights and promoting peace, should undertake the following measures:

1. To be unswerving in its commitment to the legitimate national rights of the Palestinian people, including its right to self-determination and independence, the right of refugees to repatriation, and the right to engage in all forms of struggle to attain these rights;

2. To give moral and material assistance to the Palestinian people in its struggle, including armed struggle, for its national liberation. It is not enough to recognize the right of the Palestinians to resist occupation;

3. Sanctions must be applied against Israel as an aggressor which suppresses and oppresses another people and defies the world community.

Given the motivations of Israeli policy, the conclusion is inescapable that Israel must be coerced if it is not to continue to stalk as a savage state.

Notes

1/ Alfred T. Moleah, "Violations of Palestinian rights: South African parallels," Journal of Palestine Studies, Vol. X, No. 2 (Winter 1981), p. 16.

2/ The Conventions include: The Hague Conventions of 1907 and 1909, the Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949), the Convention on the Prevention and Punishment of the Crime of Genocide (1948), and the Universal Declaration of Human Rights (1948).

3/ Translation of news item from the Israeli newspaper Ha'aretz of 12 October 1967 in appendix, document No. 76 in George Dib and Fuad Jaber, Israel's Violation of Human Rights in the Occupied Territories: A Documented Report, 3rd ed. (Beirut, Institute for Palestine Studies, April 1970). (Direct quotation from p. xvi).

4/ For a study including summaries of the relevant reports see Ghassan Bishara, "The human rights case against Israel: The policy of torture," Journal of Palestine Studies, vol. VIII, No. 4 (Summer 1979), pp. 3-30. Also see Journal of Palestine Studies, vol. X, No. 1 (Autumn 1980), pp. 94-117 for texts of report from the United States Consulate in Jerusalem.

5/ Dib and Jaber, op.cit., pp. xvii-xviii.

6/ See testimonies of 62 former inmates in Dib and Jaber, op.cit., p. 1-164.

7/ For a list of 1,156 deportees and the dates of their expulsion from 1967-1978, see Ann M. Lesch, "Israeli Deportation of Palestinians from the West Bank and the Gaza Strip, 1967-1978", two parts, Journal of Palestine Studies, vol. VIII, No. 2 (Winter 1979), pp. 101-131, and vol. VIII, No. 3 (Spring 1979), pp. 81-112.

8/ United Nations document A/33/356.

9/ William Claiborn[illegible] and Edward Cody estimated that "nearly one-third of its [West Bank] 2,200 square-mile area has been bought, expropriated, 'closed' or otherwise seized for Israeli civilian and military purposes. The settlements alone cover 28,000 acres". The West Bank: Hostage of History. (Washington, D.C., Foundation for Middle East Peace, 1980), p. 1. See Davar (5 October 1979) for a list of more than 100 settlements in the occupied territories.

10/ See study by the Committee on the Exercise of the Inalienable Rights of the Palestinian People, "Israeli policy on the West Bank water resources".

11/ Ibid., p. 14.

12/ Cited in report of the Economic Commission for Western Asia, "Social and economic conditions of Palestinian women inside and outside the occupied Territories", 1980, p. 41.

13/ Dib and Jaber, op.cit., pp. 1-164. The total number of violations is my summation of violations listed in the study after each of the 62 testimonies.

14/ Quoted from Sharett's diaries by Livia Rokach, Israel's Sacred Terrorism (Massachusetts, Association of Arab-American University Graduates, 1980), p. 36.

15/ Arie Ya'ari, "Vladimir Rabi: The treason of the intellectuals," New Outlook, May 1981, p. 47.

16/ Lisa Levenberg, "The dilemma of Israeli education," *New Outlook*, May 1981, p. 37.

17/ Resolution adopted at the 1538th meeting on 13 February 1980. Text in *Bulletin No. 5, Vol. III*, (May 1980), of the United Nations Special Unit on Palestinian Rights, pp. 24-25.

18/ Moleah, *op.cit*., p. 16.

19/ United Nations document A/34/631.

20/ The Zionist movement was able to acquire only about 6 per cent of Palestine before partition in 1947. The rest of the country was seized by force in subsequent wars.

21/ Muhammad Hallaj, "As we see it", *Middle East International*, No. 144 (27 February 1981), p. 7.

22/ Matityahu Drobles, *Mcster Plan for the Development of Settlement in Judea and Samaria*, 1979-1983. Jerusalem, World Zionist Organization, October 1978 (mimeographed).

23/ Ann M. Lesch, *ibid*., table 4, p. 105.

24/ Yehuda Z. Blum, "Israel, the UN and Middle East peace", *Middle East Focus*, vol. 3, No. 3 (September 1980), p. 18.

25/ Gabriel Ben-Dor, "Crisis in Israeli society", *Middle East Focus*, Vol. 4, No. 1 (May 1981), pp. 19-23.

26/ Boaz Evron, "The Holocaust: Learning the wrong lessons", *Journal of Palestine Studies*, vol. X, No. 3 (Spring 1981), p. 21.

27/ Israel Shahak, "The 'historical rights' and the other Holocaust", *Journal of Palestine Studies*, vol. X, No. 3 (Spring 1981), p. 21.

28/ *Ibid*., p. 33.

29/ Quote from *Al Hamishmar* of 8 February 1980, attributed to Meir Indor, spokesman from Kiryat Arba settlement, cited in Naseer H. Aruri, "Human rights and the Israeli occupation of Palestine", paper presented to the Second United Nations Seminar on the Question of Palestine, (see part II above, sect. A).

D. IMPLICATIONS OF THE PROCESS OF IMPLEMENTING THE FUNDAMENTAL RIGHTS OF THE PALESTINIAN PEOPLE

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1. Definition of fundamental rights

The formulation of the fundamental rights of the Palestinian people has been the result of their liberation movement and of the historical events which have fostered the independence of the other Arab countries and third world countries. But in modern times, no people has found it as difficult as have the Palestinians to (a) achieve legal recognition of their rights (which no one can now question, except Israel and others, for various reasons) and (b) secure the implementation of those rights. We have recently embarked on the second of these phases. The process involves many difficulties and it is therefore necessary to determine its implications, examine the obstacles and adopt measures - especially within the framework of the United Nations - to hasten the most thorough implementation possible, which conserves the greatest number of human lives and avoids the destruction of land and buildings that would further retard the material and social progress of the Palestinians after they have achieved sovereignty and established their fundamental institutions. Although fundamental rights are now covered by international law, there is no model or rigid plan which could be applied blindly, except in the case of Palestinians in very specific situations. It must also be constantly borne in mind that the United Nations has had a special responsibility in the matter from the time of "partition" until the present; certainly, this responsibility has been fulfilled within limits which are beyond the Organization's control. It should be added that the United Nations is composed of States holding given positions which they deem legitimate because they safeguard their interests, but the fundamental rights of a people cannot be subordinated to the desire of other States to impose their will. Such arbitrary conduct is inappropriate in view of the existence of an international forum and numerous legal instruments linking States in such a way that international protection should be identical for "all members of the human family", as proclaimed in the preamble to the Universal Declaration of Human Rights.

In order to begin from a basis supported by the widest consensus, we shall list the fundamental rights of the Palestinian people, as stipulated and enumerated in General Assembly resolution 35/169 A of 15 December 1980:

(a) The resolution reaffirms the inalienable rights of the Palestinians to return to their homes and property in Palestine, from which they have been displaced and uprooted, and calls for their return;

(b) It also reaffirms the following inalienable rights:

- (i) The right to self-determination without external interference and to national independence and sovereignty;
- (ii) The right of the Palestinian people to establish its own independent sovereign State.

The Sixth Conference of Heads of State or Government of Non-Aligned Countries,[1/] held at Havana in September 1979, adopted resolution II, which refers to:

(a) The right of Palestinians to return to their homes and property from which they were expelled;

(b) The right of self-determination without external interference;

(c) The right to establish an independent sovereign State in Palestine.

The section headings of the annex to the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People submitted to the General Assembly in September 1980 give priority first to "the right of return" and then to the right to self-determination, national independence and sovereignty.

In his statement to the General Assembly on 1 December 1980 Mr. Kaddoumi, the representative of the Palestine Liberation Organization (PLO), called for recognition and implementation of the inalienable rights of the Palestinian people and observed:

> "The first right is our right to return to our land and property; the second is our right to self-determination without any foreign interference; and the third is our right to sovereignty and national independence and to establish an independent Palestinian State in Palestine."

In comparing this listing of the inalienable rights of the Palestinian people with those appearing in the other resolution and previous documents, one can see that priority is given to the "right of return". It is considered fundamental and sacred, and its priority ranking is explained by the forced, collective displacement of the Palestinians who were obliged to seek refuge after losing the territory in which their community had been located.

2. The right of return

From a moral and legal standpoint, this right is embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights of the United Nations. It was extremely important because at the time when the United Nations was founded, the unfortunate situation of great masses of refugees was still highly conspicuous. It was believed that under the new international order, the number of persons forcibly displaced would gradually decrease, but expatriation became permanent as in the case of the Palestinians. In recent years, we have witnessed the expatriation of suffering masses who have had difficulty in finding a place in other countries or have been forced to remain in special centres awaiting a solution. In contemporary times, however, there has been no other instance in which the majority of a people has endured harsh living conditions for decades as the Palestinians have. It is quite a well-known fact that when Israel declared itself an independent State and occupied territories belonging to the "Arab State", hostilities began, leading to a great exodus of Palestinians. The second great exodus took place during the 1967 war. In 1970, less than half were living within the borders of Palestine - some 400,000 as citizens of Israel and about 1 million as inhabitants of the occupied territories of the West Bank and Gaza. Of the remaining 1.6 million, about 800,000 were living in Jordan and 600,000 in Syria and Lebanon, the remaining 200,000 being scattered in other countries. Naturally, these figures are subject to change. With the passage of time, the fate and suffering of the expatriate Palestinians have come to be regarded as practically normal; consequently, the aggravation of the problem does not have sufficient impact on the international community. We are accustomed to opening the newspaper every morning and reading about more recent and sensational events. People lose interest in a disaster that lasts for decades. They are under the impression that the situation of the Palestinians has been resolved, and that if problems arise they will be solved through international assistance. General Assembly resolution 194 (III), paragraph 11, which is couched in very weak terms, states that "refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date and that compensation should be paid ...". The General Assembly expresses its concern over the matter, makes a demand on Israel without naming the latter and without indicating that the refugees are protected by a right, and informs the Palestinians that they should act in a more understanding way. In resolution 212 (III) of 19 November 1948, the General Assembly expresses its concern in a more coherent and practical manner by organizing assistance to Palestine refugees. In resolution 302 (IV) of 8 December 1949 the Assembly establishes the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Year after year, in renewing the UNRWA mandate, the General Assembly, in response to growing concern, expressed its profound regret that the refugees had not been repatriated and that the compensation due to them had not been paid. Israel unequivocally refused to display a sense of justice and humanity and permit the Palestinians to be repatriated. Now, however, the international community is confronting Israel with a right in the implementation of which it plays a dominant role. Israel must respect that right or abide by the provisions of Chapter VII of the Charter since the right is being violated through continuous aggression. The Israeli position is summarized in a quotation from a statement to the General Assembly by an Israeli representative:

> "The problem of the Arab refugees originates from the rejection by the Arabs of the United Nations resolution on partition and from the war which they declared against the State of Israel the day after it was created. Consequently, they are responsible."

Nevertheless, the legal approach to the problem was gradually gaining ground. Thus, in its resolution 2672 (XXV) of 8 December 1990, the General Assembly recognized that "the problem of the Palestinian Arab refugees has arisen from the denial of their inalienable rights ...".

There was growing support in the United Nations for the idea that the refugee problem was not a "humanitarian" problem of "international public charity" and did not depend on what Israel thought, but that it was a political problem which involved the existence of a Palestinian national identity, with the right to self-determination. But the exercise of this fundamental right cannot be achieved without the recognition and guarantee of the right of return. Needless to say, no one thought that because this right had been formulated, UNRWA should be abolished. On the contrary, UNRWA has become one of the fundamental bodies involved in the implementation of the right of return and this has been recognized by its own directors who are waiting only to be given sufficient authority and the means required to play their part in the plan of return as conceived by the Committee on the Exercise of the Inalienable Rights of the Palestinian People. Naturally, we would be drifting towards the Utopian ground of vain abstractions if Israel did not undertake to accept the return of the refugees and pay them the compensation due. The case of Palestine has much in common with that of a people revolting against the oppression of a colonial Power, but there are also differences: a people achieves independence and exercises self-determination and sovereignty in its own territory; the Palestinians have lost their territory (only some of them retain a small corner of Palestine and this corner is shrinking every day), and it must be recovered in order for their fundamental rights to be implemented.

3. Beyond Security Council resolution 242 (1967)

Security Council resolution 242 (1967) has been the cornerstone of the many attempts to find a solution to the Arab-Israeli conflict. Parts of this resolution are still relevant, especially the paragraph concerning the following two principles:

(a) Withdrawal of Israeli armed forces from territories occupied in the conflict;

(b) Termination of all claims and states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force.

However, the resolution lost much of its validity with the signing of the Camp David accords. This is especially true with respect to its reference to the withdrawal of Israeli armed forces from the occupied territories since Begin has stated, explicitly or implicitly, that Israel must keep "Judea, Samaria and the Golan Heights". Israel confuses the seizure of land with the establishment of secure boundaries. It suffices to recall the many debates during which the Israeli thesis emphasized "secure boundaries" (with which it extended its territory), and not "withdrawal from occupied territories". The resolution just quoted is inadequate in view of the Palestinian people's decision to proclaim its rights and the right of return; especially weak is the ambiguous and contemptuous concept of "achieving a just settlement of the refugee problem" (para. 2 (b) of the resolution). The international community has already expressed itself categorically on that paragraph's contents, new phases have begun and new possibilities for the achievement of greater justice have been revealed. It should be recalled that the Balfour Declaration spoke of the "civil and religious rights of ... non-Jewish communities in Palestine". It did not mention their political rights or even mention the Palestinians by name, but at least it referred to "rights". With all due respect for the criticism levelled at the Plan of Partition, it did mention the "Arab State". The concepts of "rights" and "State" subsequently disappeared from the international lexicon with respect to the Palestinians. Facing the judgement of the international community in the first year of their tragedy, they were stripped of rights, of State and of land. They are stateless people who are worse off than many refugees in the world who remember their homeland. In a scrupulously honest analysis of the origins of the Palestinian drama and of the instruments then in force in order to understand their components, resolution 181 (II) would have to be studied and the idea of the "Jewish State" fully investigated. It would then be apparent that Israel entered the United Nations largely under the terms of the resolution. At present, however, it is resolution 3236 (XXIX) of 22 November 1974 which, within the framework of the United Nations, sets forth most strongly and clearly that which is not expressed in Security Council resolution 242 (1967): recognition of the inalienable rights and their link to the territory of Palestine as a basic condition for their implementation.

4. The right to self-determination, national independence and sovereignty and the establishment of a State in Palestine

These national rights are recognized as a corollary of a national identity, the right to self-determination being basic. The Palestinians are a people who have a sense of national identity as inhabitants of a country called Palestine. The United Nations accords the Palestinians de jure the status of a people with national rights under the provisions of the resolution on partition authorizing them to establish an "Arab State". That status cannot be withdrawn arbitrarily, that is to say, because another State has occupied the territory and expelled its inhabitants. But in the years which followed, the concept became hazy and the idea of the "Arab State" was lost. The Palestinians acquired a different status, that of refugees, until the General Assembly recognized "the inalienable rights of the Palestinian people". The General Assembly is consistent in its intentions: to acknowledge a legal status and to reaffirm it, since the notion of State is preceded by national identity and the rights arising from it. Accordingly, the General Assembly's latest resolution (35/169 A) begins by recalling and reaffirming resolution 181 (II) of 29 November 1947. It would be a different matter to compel the General Assembly to implement that resolution; in the view of many, that would be neither realistic nor in line with its competence or its subsequent resolutions requiring Israel to return the territory taken in 1967. General Assembly resolution 1514 (XV) of 14 December 1960 should be mentioned in connection with the implementation of the right of the Palestinian people to self-determination, since it has had such a great impact on the liberation of peoples under the colonial yoke. It begins: "The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation". With particular reference to Palestine, resolution 2672 C (XXV) of 8 December 1970 contains two decisive paragraphs in which the General Assembly: "Recognizes that the people of Palestine are entitled to equal rights and self-determination, in accordance with the Charter of the United Nations", and "Declares that full respect for the inalienable rights of the people of Palestine is an indispensable element in the establishment of a just and lasting peace in the Middle East". This establishes a link, not made in Security Council resolution 242 (1967), between the recognition and implementation of the rights of the Palestinian people and the establishment of peace in the Middle East. It suffices to note the explosive situation in the Middle East to see the historic value of this resolution. An analysis of the voting on the many resolutions concerning the Middle East and Palestine in particular reveals virtual unanimity among all countries - naturally with the persistent exception of Israel. In fact, the General Assembly has been the body which has most firmly and consistently adopted resolutions on the matter whereas the Security Council, as we shall see later, cannot overcome the executive paralysis caused by the veto of one of its permanent members, even though the Council has had two or three opportunities to achieve a breakthrough. It should be stressed that the implementation of the fundamental rights of the Palestinian people must be achieved with the participation of the United Nations, its bodies and the Secretary-General, or in conferences or negotiations supported and guaranteed by it in order that the decisions may have greater authority. The inalienable rights of the Palestinian people have been established clearly in the legal field and are supported almost unanimously by the international community. Separate agreements concluded outside the United Nations framework and aimed at preventing the implementation of the Palestinians' right to self-determination, such as those concluded at Camp David, are invalid and should be repudiated outright. But it must be recognized that we are at a crossroads in history: if the inalienable rights of the Palestinian people are not implemented, they may remain a purely theoretical claim or be used as a banner in the struggle for the liberation of an entire people; thus far, there is no sign of the method that should be used to achieve the desired goals although legally, and on the basis of the Charter, there are clearly-defined modalities for attaining the objective which only be the reparation of the injustice committed against the Palestinians. It is accordingly necessary to continue seeking to influence world public opinion, exposing the details of events from the start and attempting to point out that unless the Palestinian problem is solved, the Arab-Israeli problem cannot be solved and unless the latter is solved, there is no hope for true peace in the area and in the world. In so saying, we are not internationalizing the Palestinian conflict but revealing the magnitude of its consequences in today's endangered world.

5. Efforts to implement the fundamental rights of the Palestinian people

At present, there is a visible dichotomy between the General Assembly's efforts and the Security Council's negative attitude towards the Palestinian problem. While it is true that there has been appreciable progress in this connection, for example the Council's adoption of resolutions 465 (1980) and 478 (1980), which contained new elements on the subject, these resolutions have remained ineffective. In resolution 35/169 of 15 December 1980, the General Assembly "requests the Security Council to convene in order to consider the situation and the adoption of effective measures under Chapter VII of the Charter". This resolution is more categorical than resolution 34/65 and others. Resolution 35/169 demands "the complete and unconditional withdrawal by Israel from all the Palestinian and other Arab territories occupied since June 1967, including Jerusalem, in conformity with the fundamental principle of the inadmissibility of the acquisition of territory by force". It is well known that Israel will not pay any attention to the General Assembly's demand because it has adopted a position of defiance towards the United Nations; it dares to do so because of the support it receives, in particular, from the United States. It is logical to say that the General Assembly has not exhausted its efforts to urge the Security Council to take action and to oblige Israel to fulfil its obligations towards the Palestinians. However, the situation within the United Nations has become complicated and inextricable and requires the perseverance and firmness of all those having the authority and responsibility for solving this conflict. For now, the most serious obstacle is to be found in the United States, whose leaders must (a) deal with the demands of Americans of Jewish origin, and (b) deal with their own geopolitical interests in the area stemming from the role of the United States as a great Power. However, this situation may evolve and a change can already be seen in the views of many American legal experts, professors of international law, students and the public in general towards the Palestinian tragedy. On the other hand, if the United States continues pursuing the course it has followed thus far, it will be obliged to confront not only the criticism of the third world but also that of the international community as a whole with the inevitable exceptions.

In listing examples of the progress achieved in accelerating the implementation of the rights of the Palestinians, it should be noted that in 1975 the General Assembly established the Committee on the Exercise of the Inalienable Rights of the Palestinian People. In addition to setting forth basic considerations and guidelines, the Committee has formulated recommendations and defined the modalities for the implementation of the exercise of the inalienable rights of the Palestinian people. It has prepared the different phases of the return of the Palestinians displaced between 1948 and 1967 and has issued a series of recommendations for the implementation of the rights to self-determination, independence and sovereignty. The Committee considers that the evacuation of the territories occupied by force is a condition sine qua non for the exercise by the Palestinian people of its inalienable rights to its homes and property. With the establishment of an independent Palestinian entity, the Palestinian people will be able to exercise its right to self-determination and to decide on its own form of government without external interference. The Committee's recommendations have been endorsed by the General Assembly and transmitted to the Security Council, but the latter has not taken any action on them. There is no doubt that, in view of Israel's negative and belligerent attitude, pressure must be exerted on that State, the coercive measures envisaged in the Charter must be applied, or the Super-Powers and other States must take some form of concerted action; a precedent for this was set in 1956 when Israel withdrew its troops from the territories it had occupied at that time. The closest thing to a policy of coercion can be found in the General Assembly recommendations to the effect that economic and military aid to Israel should be withheld as long as it continues to occupy the Arab territories and refuses to recognize the inalienable rights of the Palestinian people. The Security Council adopted resolution 465 (1980) dated 1 March 1980, which deals in particular with the settlements in the occupied Arab territories and

> "Determines that: all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including

> Jerusalem, or any part thereof, have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East."

Later, it "calls upon all States not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories". This resolution was well-designed, it gave rise to a long series of declarations, it was drafted after an invitation had been issued to the Mayor of Al-Khalil (Hebron) and it contains new elements, according to the Committee on the Exercise of the Inalienable Rights of the Palestinian People. It prompted the representative of Egypt to express his concern about Israel's intensification of its settlement policy in the occupied territories and it also prompted the representative of the United States to declare, "we realize that there cannot be complete peace in the region until every aspect of the Palestinian problem has been dealt with" and to add that "the United States considers the settlements in the occupied territories to be illegal under international law", although he made substantial reservations at the end of his statement. Unfortunately, while the resolution, with its new contributions and its omissions, was accepted by consensus in the Security Council and was adopted, it had no effect because President Carter said that he was not prepared to suspend aid to Israel; since the United States is the main supplier of such aid, in practice, Israel would continue to be supplied and protected. The failure of the Security Council's efforts in that instance and the vacillation of the United States Government convinced Israel that it could continue to pursue its settlement policy in the occupied territories with impunity. Another fact to be taken into account is the United States' commitment to Israel contained in a memorandum relating to the Camp David accords. Article 5 of this memorandum states: "The United States will oppose and, if necessary, vote against any action or resolution in the United Nations which in its judgement adversely affects the Treaty of Peace". It is well known that President Carter placed his personal prestige at stake at Camp David: he felt that the Camp David accords were one of the great achievements of his Presidency. It may also be recalled that in an interview on 1 June 1980, President Carter stated: "We will not permit in the United Nations any action that would destroy the sanctity of and the present form of [resolution] 242 (1967). We have a veto power that we can exercise, if necessary, to prevent the Camp David process from being destroyed or subverted". Since neither resolution 242 (1967) nor the Camp David accords recognizes the inalienable rights of the Palestinians, the Security Council may be expected to remain ineffective in that connection until the United States radically alters its attitude or until the General Assembly or the international community finds new ways of ensuring the implementation of the fundamental rights of the Palestinians. At this very moment, newspapers and radio broadcasts are reporting another Israeli incursion into Lebanon, which has caused the death of more than 300 men, women and children. Although the world is stunned, no way can be found to calm Begin's fury. The journalist James Reston of *The New York Times*, referring to President Reagan, asked: "What is his Middle East policy? Will the United States continue to finance policies in Israel it 'deplores' and 'condemns'?" However, Israel's "friends" are immediately mobilized on the assumption that Israel's national interests are identical to the world interests of the United States.

6. Camp David

In a reply to the Secretary-General of the United Nations dated 4 November 1980, the Permanent Representative of Israel said:

> "The Minister for Foreign Affairs of Israel on 29 September 1980 in the course of the general debate ... of the General Assembly ... stated that the Camp David Framework Accord for Peace in the Middle East, which is based on Security Council resolution 242 (1967), is the only approach which is within the realm of the possible, and that, in accordance with the Framework Accord, negotiations have been taking place for the attainment of full autonomy for the Palestinian Arab inhabitants of Judea, Samaria and the Gaza district".

In its resolution 34/65 B, dated 29 November 1979, the General Assembly,

> "1. *Notes with concern* that the Camp David accords have been concluded outside the framework of the United Nations and without the participation of the Palestine Liberation Organization, the representative of the Palestinian people;
>
> "2. *Rejects* those provisions of the accords which ignore, infringe, violate or deny the inalienable rights of the Palestinian people, including the right of return, the right of self-determination and the right to national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations, and which envisage and condone continued Israeli occupation of the Palestinian territories occupied by Israel since 1967;
>
> "3. *Strongly condemns* all partial agreements and separate treaties which constitute a flagrant violation of the rights of the Palestinian people, the principles of the charter and the resolutions adopted in the various international forums on the Palestinian issue;

> "4. Declares that the Camp David accords and other agreements have no validity in so far as they purport to determine the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967".

The Camp David accords represent one of the harshest blows dealt the Palestinian cause in recent years because they aggravate the difficulties involved in implementing the fundamental rights of the Palestinians, deny their rights and reduce their right to sovereignty to a mere formula for autonomous administration in the West Bank, while giving the Israelis a dominant role to play in the final structuring of the formula and subjecting the Palestinians to the repressive system of the Israeli authorities. The Camp David accords radically undermine resolution 181 (II) since the "Arab State" would become little more than a community, not entirely freed from territorial rule, worse than a protectorate, with purely formal administrative autonomy, where the will of Israel would prevail in every circumstance, and where the Palestinians would not have any protection whatsoever. Because these accords were concluded without the presence of PLO representatives, they have no validity and are being imposed on them through the concerted action of three Powers. Mr. Sayegh said that "a fraction of the Palestinian people (under one third of the whole) is promised a fraction of its rights (not including the natural right to self-determination and statehood) in a fraction of its homeland (less than one fifth of the area of the whole); ... through a step by step process in which Israel is able ... to exercise a decisive veto power ... Beyond that, the vast majority of Palestinians is condemned to permanent loss of its national Palestinian identity, to permanent exile and statelessness, to permanent separation from one another and from Palestine - to life without national hope or meaning". The Camp David accords strengthen the alliance between Israel and the United States; the latter considers them to be a great contribution to the cause of peace. Nevertheless, considerable criticism has been aroused in the United States by the idea that in pursuing its settlement policy, Israel has not fulfilled its commitments. Despite the fact that Israel, in the letter to the Secretary-General, referred to resolution 242 (1967) as the basis of the Camp David accords, there is no reference to the fate of the so-called "refugees", no indication of any hope of return, and no mention of Palestinian rights. Because these accords were concluded in strict privacy, they are also sowing dissension among the Arab peoples and are prompting them to ignore their fundamental organizations. However, the main thing is that they place the fate of the Palestinians in the area in the hands of Israel. As to Israel's attitude towards the autonomy plan, one must rule out any possibility that so-called "administrative autonomy" could evolve towards a sovereign entity free of Israeli tutelage, and especially towards a State, a possibility which Israel violently rejects. If any decision contrary to Israel's way of thinking was taken on this point the occupying State would intervene militarily. Of course, Israel will try to find substitutes for the legitimate representatives of the Palestinians, but its attempts will fail because of their cast-iron unity.

7. Israeli expansionism

Israel's expansionist nature has been revealed throughout its history by the doctrine that has guided its behaviour, namely, zionism, according to which, as Herzl wrote, Palestine should become a "Jewish State". In 1919, the Zionist delegation to the Peace Conference of Paris circulated the plan for a "Zionist State", which included such areas as the southern part of Lebanon and the Golan Heights. Even at that time, the Zionist ambition was to have borders that met the economic needs, the historical traditions and the Messianism of the "chosen people". The "Economic Union of Palestine" contained in the plan of partition, which was directed towards the joint development of a Jewish and an Arab State and access for both States and for the City of Jerusalem on a non-discriminatory basis to water and power facilities, was a far cry from the Zionist intentions. The Jewish State absorbed the Arab State, took over its resources and sources of energy and drove its inhabitants out of Palestine. On 3 May 1943, General Patrick J. Hurley, personal representative of President Roosevelt in the Middle East, informed the President "that the Zionist organization in Palestine had disclosed a far-reaching programme for: (a) a Jewish State that would include Palestine and eventually Transjordan; (b) the eventual transfer of the Arab population of Palestine to Iraq; and (c) Jewish supremacy throughout the Middle East in terms of economic development and control". If a detailed investigation is made of the plans, doctrines and intentions of zionism, starting with its preliminary activities up to the present, one sees that Israel is gradually fulfilling its territorial dream: expansionism accompanied by the despoliation and expulsion or subjugation of the Palestinians. Accordingly, the fundamental rights of the Palestinian people must be proclaimed on extremely clear bases, which link such rights with land and property. Since the start of their occupation, the Israelis have pursued a settlement policy which consists of dispersing the Palestinians, destroying their homes in accordance with plans, meting out collective punishment, wiping out entire villages, and making sure that the settlements have the best land and resources and that they receive military protection. To ensure that these plans are carried out, steps have been taken to develop natural resources and to build irrigation systems and engineering works to help the Israeli settlers. Since the Camp David accords, the settlement policy has been pursued on the West Bank in a strategic manner, thoughtlessly and without any regard for world public opinion. What kind of autonomy can be achieved if the territory is riddled with or divided by settlements that are considered to be fortresses? Statistics show that the land expropriated by Israel already represents 29 per cent of the total area of the West Bank, the major part of the Golan Heights and 35 per cent of the Gaza Strip. The Palestinian Arabs who remain in the occupied territories, including Jerusalem, are subjected to the constant pressure of threats, the purpose of which is to create more protected space for the Israelis. The settlement policy has the additional effect of changing the political and legal status, the demographic composition and also the geographical characteristics of the region. As Mr. Mutukwa said, this is purely and simply "a form of colonialism aimed at violating territorial integrity and national unity so as to infringe the right to self-determination".

8. Arab nationalism and the PLO

The fundamental rights of the Palestinian people could not have been recognized had not a strong sense of nationalism emerged among the Palestinians, constituting evidence of that people's identity. The United Nations agreements could not have been achieved had there not been an awareness of the Palestinian people's sense of unity, its pride in its historical roots and its sense of national destiny. It may still take several years but the Palestinians - fugitives from or robbed of their own territory - will achieve sovereignty and secure their own State. The Palestinian cause has always been the case of all Arabs notwithstanding passing differences. Israel's historical error has been its failure to recognize the Palestinian community as a nation. Under the present circumstances, the recognition of the PLO as the legitimate representative of the Palestinian people constitutes a development of the utmost importance. Israel persists in refusing to recognize it and in seeking to cause it to lose prestige and to deprive it of authority, thereby preventing a valid interlocutor from being present at any discussions or negotiations concerning Palestinian rights. There can be no exercise of the fundamental rights of the Palestinian people without the PLO. The PLO acts as executor in all matters affecting the interests of the Palestinian people. The PLO, having rallied so often to fight the colonial or occupying Power, is the embodiment of a national movement. The PLO is not a political party or a faction. On many occasions it behaves as though national powers had been delegated to it. If the PLO were a "terrorist" organization, it would have a rigid and dictatorial structure instead of a democratic one based on a real national assembly and executive council. Under resolution 3236 (XXIX), adopted on 22 November 1974 in the presence of the Chairman of the PLO, Yasser Arafat, the General Assembly "Reaffirms the inalienable rights of the Palestinian people". The resolution makes it clear that the Palestinian people has the right to regain its rights "by all means" in accordance with the purposes and principles of the Charter. It also emphasizes that full respect for and the realization of these inalienable rights of the Palestinian people are indispensable for the solution of the question of Palestine and recognizes that the Palestinian people is a principal party in the establishment of a just and lasting peace in the Middle East. The resolution already contains the arguments needed to nullify the Camp David accords. The PLO does not confine its activities to the United Nations but extends them to numerous organizations; these include the Organization of African Unity, the Organization of the Islamic Conference and the Movement of Non-Aligned Countries.

9. Positive and negative elements of the existing situation

In the interest of being realistic, attention must be drawn to the positive and negative elements of the existing situation in respect of the process which should lead to the full implementation of the fundamental rights of the Palestinian people. They can be summarized as follows:

Positive elements:

(a) The progress which has been made over the years in the United Nations, in the clarification and moral, legal and political recognition of the Palestinian situation and which culminated in General Assembly resolution 35/169;

(b) The political authority currently wielded by the PLO as legitimate representative of the Palestinian people and the international community's recognition of the PLO;

(c) The recommendations for the implementation of the fundamental rights of the Palestinian people and other works as well as the constant vigilance of the Committee on the Exercise of the Inalienable Rights of the Palestinian People;

(d) The intensive research into and analysis of human rights violations in the occupied territories carried out by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories;

(e) The progress made by the Security Council as reflected in resolutions 446 (1979) and 465 (1980);

(f) The "neutral" vote cast by the European countries at the special session of the General Assembly on the question of Palestine;

(g) The Venice declaration on the Middle East of the European Council condemning the Camp David accords and reaffirming the relevant resolutions of the General Assembly concerning the inalienable rights of the Palestinian people;

(h) The withdrawal of some embassies from Jerusalem as an expression of disagreement with Israel's annexation of that city.

Negative elements

(a) The Camp David accords, which make no mention of the inalienable rights of the Palestinian people;

(b) The pursuit, by Israel, of its policy of establishing settlements on the West Bank;

(c) The ineffectiveness of the Security Council on the question of Palestine owing, in large measure, to the use of the veto by the United States;

(d) Israel's opposition to the Palestinians' right of return;

(e) Israel's opposition to the Palestinians' right to self-determination;

(f) Israel's violation of the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights as far as the Palestinians are concerned;

(g) Israel's opposition to recognition of the PLO and its campaign to label that organization as "terrorist";

(h) The change in Jerusalem's status;

(i) Israel's attacks and air raids on Lebanon aimed indiscriminately at men, women and children;

(j) The bombing and resulting destruction of the atomic reactor near Baghdad;

(k) The military weakness of the Arab countries which prevents them from standing up to Israel's attacks and threats;

(l) The world's feeble reaction to Israel's deliberate and continuing military attacks;

(m) The failure of the United States to recognize the fundamental rights of the Palestinians, its insistence that Security Council resolution 242 (1967), which contains the reference to "refugees", still applies; its assistance to, and arming of, Israel and its use of the entire area to strengthen its hegemony as part of its world strategy.

10. Extension of the Palestinian conflict

The full and unconditional support of the United States for Israel is unfortunately the main obstacle to the solution of the Palestinian problem. It is feared that this obstacle may grow as United States intervention and presence in the area expand in furtherance of its specific purposes as part of the increasing rivalry between the United States and the Soviet Union. We have always felt that the Palestinian question was the key to the Middle East conflict. However, the question has been exacerbated by the continued existence of injustices vis-à-vis the Palestinians and by the fact that Israel's expansionary aims are being supported, that is being armed so that it can attack other Arab States and is being made to believe by the United States that it is an indispensable piece in the great game of world politics. Thus, for reasons which go beyond the Arab-Israeli conflict and have to do with international tension, the area is now one of the areas which pose the greatest threat to world peace. At the same time, the extension and heightening of tensions in the area will have a negative impact on the Palestinian question since the United States will (a) redouble its aid to Israel, which has become its powerful ally and (b) seek to obtain military facilities in some countries in the area by trying to convince them that the real enemy is not Israel but the Soviet Union. The United States believes that developments in the Middle East and adjacent areas, such as the increase in oil prices, the revolution in Iran and the occupation of Afghanistan, have undermined its influence and damaged its interests. Meanwhile, the Jewish lobby, particularly in Washington, which has tremendous influence on the information media, although there certainly are strong and more independent nuclei of opinion, continues to pressure the Government to grant Israel the most advanced war matériel on the pretext of the threat posed by the Soviet Union or by other countries. For example, owing to pressure from the Jewish lobby, the United States leaders have had to agree with Israel to term what happened immediately following the raid on Baghdad a "misunderstanding". This clarification clears the way for the delivery of F-16 bombers to Israel. But Israel uses the weapons and aircraft delivered to it by the United States in case an international threat arises to attack Arab countries and intensify Lebanon's agony. Israel's friends in Washington do not realize that their efforts to defend Israel's policy of aggression are creating deep dissatisfaction with the United States in the Arab countries. Israel, taking into account the geopolitical approach of certain United States strategists, persists in viewing itself as an aircraft carrier anchored facing the Mediterranean Sea and the Red Sea. It is also very much aware of the fact that it is situated at the intersection of three continents. It is cause for great concern that Israel's mastery of weapons production technology is causing it to become a supplier of military artifacts to some third world countries. Aside form the burden this places on these countries, which often are unable easily to acquire what they seek, Israel's offers must be accompanied by certain political conditions. Another decisive factor is the emotions generated in Israel by the "holocaust" and the outbreaks of "anti-Semitism". We are appalled and moved by the tragic fate of the Jews under Hitler for pogroms and anti-Semitism are totally alien to Arabs. Arabs and Jews have lived side by side in various places, in communities where harmony and solidarity have prevailed. Now, Israel is seeking by every means to become vital and indispensable to the United States so that it can more easily make its views regarding the Palestinian problem prevail. However, this will not help to solve any conflict and will merely lead to world disapproval of Israel.

11. Israel and South Africa

There are many striking similarities between Israel and South Africa. Israel, based on zionism, has pursued a racist policy (forgetting that millions of Jews suffered because of the Nazis' racist fervour). Although the Jews never succeeded in fully integrating themselves in Western civilization, they arrived in Palestine as representatives of a "superior", civilized people which considered the inhabitants of the area, namely the Palestinians, as inferiors. In so doing, they applied the same colonialist-racist criterion applied by some major Western Powers. Israel has always been supported by a major Power, first, the United Kingdom, now the United States. In order to highlight the tendencies towards racial discrimination which have activated the Israelis, it would be necessary to review the various studies that have been carried out on the way in which western Ashkenazy Jews lived together in Israel with eastern Sephardic Jews. Attention has been drawn to the similarities so far as methods of operation are concerned between zionism and the Calvinist Christianity of the Boers in South Africa. The Arab communities in Israel and on the West Bank are being forced into a situation very similar to that of the "bantustans" in South Africa. The "Judaization" of an area or of a town in Palestine is undertaken with the same colonialist, racist feeling that inspired the Boers and that has been perpetuated in South Africa: the land is confiscated, the Palestinians are expelled or compelled to leave and their place is taken by Jewish settlers. At one time there were Zionist thinkers who dreamed of a binational State but their voices have been silenced. It is worth repeating the statement made by one Zionist leader: [The aim is] "to create a Jewish State as Jewish as England is English". Both Israel and South Africa have become powerful military bastions possessing tremendous offensive capacity. Israel attacks and bombs Lebanon without a second thought in order to destroy the Palestinians, just as South Africa attacks Angola in order to destroy the "freedom fighters". Both States possess or are in the process of acquiring the nuclear bomb. Year after year the United Nations adopted strongly-worded resolutions condemning South Africa for its apartheid policy directed against the blacks. Something similar happens in respect of Israel because of its repressive policy against the Palestinians. The two States adopt a negative and arrogant attitude towards these condemnations by the United Nations. We should add - and this is important and significant at the present time - that the attitude of the United States towards the two States is similar. Although, on the one hand, it tries to demonstrate that it is working hard to ease the lots of blacks and Palestinians, on the other, it feels that Israel and South Africa are allies which it cannot dispense with because of their power and geographical location. Israel's raid by air on Entebbe was greeted as a tremendous feat. But while this exploit by the Israeli aviators was undoubtedly spectacular, it also showed that Israel has the potential to penetrate Africa. The similarity of interests and close cooperation between Israel and South Africa cannot but cause great concern to the African peoples and to the international community in general.

12. Conclusions

More than 30 years have elapsed and the Palestinian people continues to suffer in exile or in occupied lands. A number of initiatives have been taken to find a solution to a problem which grieves the whole of mankind but the efforts always come to naught, thus giving rise to frustration and bitterness. Solution of the Palestinian problem would result in relaxation of tension in the Middle East and would make a major contribution to the strengthening of world peace. We can neither ignore nor back away from the difficulties. We have great faith in world opinion and believe that once the world fully understands the problem in all its complexities and ramifications it can exert a decisive influence so that a people which is now humiliated and oppressed may finally be liberated and attain the position it deserves in the international community in full enjoyment of its freedom, land and inalienable rights. We are confident that Washington could be brought to change its course if there were a positive reversal of public opinion in the United States and if its Western and other allies were to show greater interest in the matter. We would venture to draw the following conclusions and make the following suggestions:

(a) The American people should be more fully informed of Israel's aggressive policy and of the United States contribution to that policy in the form of war matériel, technology and substantial economic resources;

(b) This assistance encourages Israel's military boldness vis-à-vis its neighbours and consolidates its oppression of the Palestinians in the occupied territories and does not directly benefit the Israeli people, whose well-being and development are adversely affected;

(c) We believe that it would be beneficial if the relevant committee were to organize a special seminar for the United States. Jurists, university professors, journalists, students and others who have expressed an interest, on more than one occasion, in studying the Palestinian question in greater depth could be invited to this seminar;

(d) It is necessary to stress, particularly as far as the American people are concerned, that recognition of Palestinian rights or the possible establishment of a Palestinian State or of a sovereign entity in occupied lands will not in any way constitute a threat to the existence and security of the Jewish people. To that end, a guarantee could be sought from the United Nations or from other Powers, with the acquiescence of the international organization;

(e) It would greatly benefit the Palestinian cause if the United Nations were to arrange for greater representation of Palestinians resident in the occupied territories at its conferences and at meetings of its organs;

(f) Greater pressure should be brought to bear on Israel to subscribe to the Treaty on the Non-Proliferation of Nuclear Weapons;

(g) Due account should be taken of the promising attitude adopted towards the problem by Western Europe;

(h) Greater efforts should be made in the General Assembly and in the Security Council to give urgent consideration to the need to apply some of the provisions of Chapter VII of the Charter to the State of Israel because of its failure to fulfill its obligations and of its acts of aggression, which threaten international peace and security;

(i) A seminar such as this one, which is being held in Latin America, whose people achieved freedom and sovereignty following a long and heroic struggle against the colonial Power, should arouse greater interest on the part of the public and among Governments in the region; hence, it is necessary to ensure that the work, discussions and conclusions of this seminar are widely disseminated.

Despite the inherent difficulties of so serious an international problem, there is no doubt that when the pros and cons are weighed it is clear that tremendous progress has been made in the world as regards understanding of and interest on all matters relating to the Palestinian cause.

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1/ A/34/542.

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E. HUMAN RIGHTS AND PALESTINE

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For the Seminar on "The inalienable rights of the Palestinian people", convened under General Assembly resolution 34/65 D of 12 December 1979, I have been assigned the topic "Human Rights and Palestine". It is an important topic and one of constant relevance. The problem of the situation in the Middle East, the violence unleashed in the region, the policy of Israel, the occupation of territories by force, the continuing struggle of a people for self-determination and the presence of foreign interests trying to exert permanent influence and achieve political, economic and other ambitions in the region for foreign Powers are elements which have created a state of affairs that affects peace, creates a warlike situation, has a negative impact on human rights, threatens the security of the peoples and makes the Middle East a focus of tension and an area of confrontation which arouses concern in all the peoples of the world and prevents harmonious, peaceful and respectful coexistence among nations.

The United Nations has been constantly concerned with the situation in the Middle East because of its negative implications for peace and security. In truth, it must be admitted that that situation has been getting progressively worse since 1967 for various reasons which have rendered international tension more acute. The primary causes of the deterioration of the situation in the Middle East, which threatens peace and security, include the following factors:

(a) The State of Israel's refusal to return the Arab territories conquered by force;

(b) The implementation by the Tel Aviv Government of a policy aimed at bringing the Arab territories conquered by force almost completely under Israeli sovereignty;

(c) The repeated use of armed force by Israel which has created a state of permanent fear and militancy and a constant threat to the Arab population;

(d) Israel's refusal to recognize the resolutions of the United Nations General Assembly and other competent organs in so far as they refer to the rules which ensure harmonious and peaceful coexistence based on respect for the rights of neighbours and the other countries in the region;

(e) Israel's policy of non-recognition of the rights of the Palestinian people to free and voluntary self-determination;

(f) Repeated disregard for the human rights of the Palestinian people and international norms such as those established in the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War.[1]

There are undoubtedly other facts which explain and contribute to the progressive deterioration of peace and security in the region but it seems that the above-mentioned causes include, in one form or another, the principal reasons for the unstable and distressing situation of the peoples of the region, particularly the Palestinian people. Israel has maintained that its attitudes and its uses of armed force are intended only to defend its existence, which is threatened by the decision of the Palestine Liberation Organization (PLO) and some Arab States, which have proclaimed their intention of wiping out the Israeli State. The truth is that in recent years it has been possible to discern a policy of the Arab States and the Palestinians which does not have the purpose stated by Israel but which seeks primarily the return of the territories conquered in the 1967 war, an end to violent acts of so-called retaliation through attacks, bombardments and acts of mass destruction by Israel's military forces against Arab population groups, and recognition of the inalienable rights of the Palestinian people, in particular, the right to self-determination. This does not mean the destruction of the State of Israel, which, moreover, would not find any justification in the principles of international law and the Charter of the United Nations, which guarantee all peoples, in every region of the world, the right to live in peace and security.

The human rights of the Palestinian people are no different from those that are recognized for all the peoples of the world and are proclaimed and validated by various international agreements, starting with the Charter of the United Nations, and accepted by the majority of the States of the world. The Palestinian people ask no more and can accept no less than that which has been recognized as the essential basis of the human rights of all social and political groups. I do not believe that the Palestinian people demand special treatment different from that which prevails for all other peoples. Human rights are and must be equal for all individuals and all nationalities. In this area, there can be no pre-eminence of any kind because all peoples are equal in international law and have the same rights without restriction. The Palestinian people, therefore, have a right to enjoy the same human rights guaranteeing life, security, peace, the family, development, well-being, respect for their cultural and ethnic values, international protection, harmonious coexistence, international cooperation and self-determination, to which each and every one of the national groups existing in the world is entitled. The Palestinian people cannot be deprived of these and the other rights and treatment that are demanded, respected and proclaimed by the international community.

A brief detailed description of some of these essential rights, which the Palestinian people must enjoy to the full, is given below.

The right to determine freely, without external interference, its political status and its economic, social and cultural development. Every State has the duty to respect this right of the Palestinian people, in accordance with the provisions of the Charter.

This right derives from the principle of equality and the right to self-determination of peoples embodied in Articles 1 and 55 of the Charter. We may note that in contemporary international law, the subjects of international law include not only States but also peoples who are therefore entitled to the unrestricted application of the principles of equality and self-determination. This right, recognized in the Charter, is inspired by the need to safeguard the rights of peoples and applies, indisputably, to the inhabitants of their territories because the protection of human rights is general in scope and does not allow undue restrictions. Consequently, the people of Palestine have a perfect right to become a sovereign and independent State or to acquire any other freely determined political status. Self-determination is based on the freely expressed wishes of peoples. Therefore, the wishes of the Palestinian people must be determined and no external intervention which limits or restricts their will and their right or which conditions their independence or sovereignty is permissible. The right to self-determination of the Palestinian people is identified with the right to establish its own sovereign and independent State. It would be inadmissible discrimination to try to deny the people of Palestine the right to free self-determination when the use and exercise of the same right has been recognized and is recognized with respect to other peoples in different regions of the world. Consequently, any measure or any act which restricts the right to self-determination of the Palestinian people, i.e., its right to organize freely and voluntarily as a sovereign political entity, in accordance with its wishes, is illegal under the Charter and contrary to the principles proclaimed by the General Assembly and the prevailing norms of contemporary international law. The logical conclusion to be drawn from these norms adopted by the international community is that the people of Palestine should receive the support of the United Nations and all Member States in their endeavour to exercise their right to self-determination, in accordance with the purposes and principles of the Charter.

At the same time, this duty of the United Nations provides the legal basis for the corresponding duty of all States "to refrain from forcible action which deprives the Palestinian people "of their right to self-determination and freedom and independence".

Consequently, threats, repression, the use of force, and any attempt to impede the self-determination of the people of Palestine is contrary to the norms of international law and the principles of the United Nations.

The Charter of the United Nations provides that all States "shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the Purposes of the United Nations". Thus, all nations are protected by this principle, which constitutes a declaration of the illegality of war. We may note that the Charter prohibits not only the use but also the threat of force and provides that armed force shall not be used except in the common interest. Consequently, any use of force except in the case of self-defence is inconsistent with the purposes of the United Nations. The United Nations General Assembly has therefore declared that "a war of aggression constitutes a crime against the peace, for which there is responsibility under international law". This is a fundamental principle of State conduct which gives contemporary international law a new and definitive tone. However, this principle is not just a theoretical pronouncement but establishes a duty, namely that of refraining from any illegitimate use of armed force and from propaganda for wars of aggression.

The principle of the non-use of armed force in international relations supports another substantive norm governing international relations and adopted by the General Assembly, which stated that "The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal".

Therefore, Israel's retention by force of the Arab territories occupied since 1967 is an illegal act. Consequently, it is the inescapable duty of Israel to return those territories to their legitimate owners, the Arab peoples. This is a basic condition for peace in the Middle East. Fulfilment of this obligation by Israel must be required by the United Nations and supported by all the States of the international community. The restoration of the Arab territories is an inalienable right and the withdrawal of the Israeli forces of occupation must, undoubtedly, permit the Palestinian people to exercise its right to self-determination and to organize as a sovereign State in a specific territory.

The principle of non-violence in international relations and of the non-use of armed force except in the case of self-defence has been violated by Israel with the bombing and destruction of the Tamuz nuclear power plant in Iraq. The reaction of international public opinion to this act has been unanimous and there has been widespread condemnation of the Israeli military action. Israel is under an obligation to refrain from such acts of force and to assume responsibility for the reparations due as a result of those illegal acts of unjustified force.

Linked with the prohibition of war and of the threat or use of armed force in relations between States is the principle of peaceful settlement of disputes. This is a norm proclaimed by international law and the Charter as a duty to be faithfully observed by all States. This duty involves peaceful endorsement of the rights of the Palestinian people which must be implemented by the world organization responsible for peace and security. Consequently, it is the legal duty of all United Nations organs to contribute to the peaceful recognition of the inalienable rights of the Palestinian people in accordance with the principles of justice.

On the other hand, the persistence of a conflict situation which endangers international and security makes a timely, peaceful and effective resolution by the United Nations a necessity and a duty.

This is the situation of the Palestinian people. A situation which endangers international peace and security is a matter which lies outside the exclusive competence of any one of the parties and concerns all States and the international community as a whole. In other words, a situation which affects international peace and security, such as that of Palestine, is a matter of general interest and places on the United Nations and its competent organs an inescapable responsibility to resolve it in accordance with the principles of the Charter. Israel's attitude in refusing any negotiation on the rights of the Palestinian people gives rise to this serious conflict situation which, in the terms of the Charter, presents a threat to peace and security. Accordingly, it is the inescapable obligation of the United Nations to intervene and endeavour to resolve the case by all the means available to it, in accordance with the norms of international law.

The right of the Palestinian people to peaceful and just settlement of the situation affecting it implies full recognition of its legitimate claims and, in particular, its right to self-determination, an end to the occupation of the territories retained by force and the full exercise of the human rights of the Palestinian inhabitants in the territories occupied by Israel, among other basic aspects of their inalienable rights; and, as the use of armed force by Israel contravenes the international duty to resolve such disputes peacefully, consequent Israeli responsibilities arise at the international level.

Although any dispute must be resolved by peaceful means, it is inadmissible that without the participation of the Palestinian people, acts should be performed, measures adopted and negotiations entered into which directly or indirectly affect their rights and their future. The responsibility borne by the United Nations and all Member States should lead to a greater effort to solve pending problems and achieve a just and lasting peace in the region in accordance with the Charter and international law. This goal cannot be achieved through partial agreements, which constitute a violation of the rights of the Palestinian people. The legal personality of the Palestinian people, its historic destiny and its inalienable rights belong exclusively and sovereignly to that people and cannot be controlled by foreign Powers which are defending their own political and economic interests and their international prestige rather than the rights of the Palestinian people. Consequently, the negotiation of any agreement making it possible to resolve the conflict situation in the region requires the direct participation of representatives of the Palestinian people, identified today as the PLO, which has been described as the sole entity competent to speak on behalf of that people.

Lastly, Israel's reiterated position on maintaining and increasing settlements in the occupied territories militates against the peaceful resolution of the existing conflict situation. This position signifies the inadmissible intention of bringing such territories under Israeli sovereignty, in violation of the Charter and international law.

The norms of contemporary international law establish an international guarantee for human rights. Human rights are not a gracious concession by any State or Government but pre-existing values which are inherent in the personality of the individual and which establish inalienable rights enjoyed by all human beings, without discrimination of any kind. This international guarantee must be implemented through timely and effective action by the competent organs established by the international community.

In accordance with the principles set forth in the United Nations Charter, freedom, justice and peace in the world are based on recognition of the inherent dignity of all members of the human family and their equal and inalienable rights. No State can escape or reject the obligation to promote and observe universal and effective respect for human rights and freedoms. Accordingly, the Palestinian people have inalienable rights in this area and, consequently, Israel has the inescapable duty to respect the human rights of all Palestinians. Violation of the human rights of the Palestinian inhabitants cannot be justified by any reason or pretext. The international community, through the United Nations, must ensure the exercise of the human rights of the Palestinians and adopt the necessary measures to ensure that they are respected despite the conflict situation in the region which has given rise to tensions and confrontations.

In particular, certain measures and practices proclaimed and implemented by Israel affect the human rights of the population of the occupied territories. For example, the acts of the Government of Israel aimed at changing the legal status, geographical character and demographic composition of these territories involve violations of the fundamental rights of the Palestinian people.

Among the most frequently denounced of these violations, we may mention the following.

Every human being, everywhere, has the right to recognition of his legal personality, in accordance with the norms on which human rights are based. The Universal Declaration of Human Rights[2/] and the International Covenant on Civil and Political Rights[3/] embody this principle and establish it as a norm to be respected by all States. The acts committed in the Arab territories occupied by Israel and the practices followed, which have been denounced on various occasions in the General Assembly of the United Nations, involve disregard of this fundamental principle of human rights. Similar disregard has been shown for the right to the protection which society and States owe to the family, to the Palestinian family, since the family is a natural and fundamental element of the community. Thus, displacement, deportation, exile, the uprooting and removal of Arab inhabitants of the occupied territories and denial of their right of return constitute clear violations of this right. These denounced acts also constitute a breach of the immutable norm set forth in the Universal Declaration of Human Rights, which provides that no one shall be subjected to arbitrary interference in his privacy, family or home and that, on the contrary, all have a right to due protection against such interference or attacks. The measures aiming at the elimination of the purely Arab municipal and social organizations in the occupied territories and the expulsion of their Arab leaders also constitute illegal acts.

Article 17 of the Universal Declaration of Human Rights states that everyone has the right to own property alone as well as in association with others and that no one shall be arbitrarily deprived of his property. The confiscation and expropriation of private and public Arab property in the occupied territories and all the other transactions for the acquisition of land between the Israeli authorities, institutions or nationals, on the one hand, and the inhabitants or institutions of the occupied territories, on the other, constitute a violation of this principle. The destruction and demolition of Arab houses by the Israeli authorities and the exploitation of the natural wealth and resources of the occupied territories, which are the patrimony of the Palestinian and Arab people, also violate this fundamental norm. The United Nations General Assembly has condemned these acts.

The right to life is one of the essential rights of every human being and should be protected by the authorities and by States. All individuals have a right to liberty and security. The frequent bombardments and armed attacks carried out by Israel against nuclei of Palestinian inhabitants and Arab populations run directly counter to the principle of the right of every individual to life and security, as laid down in the principal instruments which proclaim and establish human rights as a mandatory norm of conduct for all nations.

Various charges of mass arrests, administrative detentions, ill-treatment of the Arab population and torture of detained persons have been brought before the United Nations General Assembly. These acts are condemned by human rights legislation, which lays down that no one shall be subjected to torture, hardship or cruel, inhuman or degrading treatment and that every person deprived of liberty shall be treated humanely and with the respect due to the dignity inherent in all human beings.

The restrictions on freedom of religion and religious practices, which have also been denounced, violate the principle of human rights which guarantees every person freedom of thought, conscience and religion. This right includes freedom to hold or adopt the religion or belief of choice, as well as freedom to manifest one's religion or belief, either alone or in community with others and in public or in private, in teaching, practice, worship and observance.

The attack on and destruction of the archaeological and cultural patrimony of Palestinian and Arabs, which has also been denounced in the United Nations General Assembly, violate the right of ethnic, religious or linguistic communities to have their own cultural life, to profess and practice their own religion and to use their own language. Acts contrary to this norm must be severely censured, and Israel must be prevailed upon by all means to respect the ethnic, religious and linguistic values of Arabs and Palestinians.

The Geneva Convention relative to the Protection of Civilian Persons in Time of War,[1/] signed on 12 August 1949, lays down norms of positive international law which must mandatorily be respected by all States, in good faith and unconditionally. The continual and persistent violation of this Convention by Israel, which has been denounced, is a fact which affects Israel's obligations with regard to the rights of the Palestinian people and the international community in general. No reason or pretext can serve as a basis for evading the obligation to respect the Geneva Convention. Failure to respect this international instrument and other relevant international instruments is a direct breach of essential norms of human rights.

It is the duty of the United Nations and all Member States, in accordance with the Charter and the resolutions of the General Assembly, to prevent the principles of international coexistence from being violated and the Middle East situation from continuing to affect world peace and security. They have the corresponding duty to assist in the defence and preservation of the rights of the Palestinian people and to adopt the most appropriate and timely measures so that the peoples of this region may live in peace, practice mutual respect, abandon violence and act within the framework of the norms of international law. This is a constant, urgent, inescapable and transcendent responsibility of the United Nations and all Member States.

Notes

1/ United Nations, Treaty Series, vol. 75, No. 973.

2/ Resolution 217 A (III).

3/ Resolution 2200 A (XXI).

F. THE FUNDAMENTAL RIGHTS OF THE PALESTINIAN PEOPLE

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An examination of the rights of the Palestinian people of the West Bank and Gaza and how those rights are being denied by the Israeli occupation authorities

The West Bank and the Gaza Strip are those areas of Palestine that remained in Arab hands after the 1948 Arab-Israeli war. In 1967 they were conquered by Israeli forces and are now known as the occupied territories. Together they form slightly less than one quarter of the area of Palestine and they have a combined population of about 1.3 million people.

The purpose of this paper is to concentrate on the inhabitants of the occupied territories who form about a third of the Palestinian people, to discuss what rights the latter should be enjoying in its homeland, and to describe the methods used by the Israeli military occupation authorities in order to prevent it from exercising those rights.

There can be no doubt that the occupied territories belong to the Palestinian people and to nobody else. Whether it has been ruled by the Ottoman Empire, the British Empire or the Israelis, the population has consisted almost entire of Palestinian Arabs. Even today, after years of Zionist colonization, the population of the West Bank is still 97 per cent Palestinian. Moreover, in the United Nations partition plan of 1947, both the West Bank and the Gaza Strip were included in the area designated for the proposed Arab State. Thus, if the United Nations plan is cited as the legal basis for Israel's existence, then it can just as well be cited as the legal basis for a Palestinian State in an area that includes the occupied territories.

It is important to realize that Israel's occupation of these areas is very different from other occupations elsewhere in the world. Whatever arguments are put forward by Zionist apologists about security considerations, the prime motive of Israel's continued occupation is not strategic but colonialist. The Israeli Government no longer pretends, as it used to when the Labour Party was in power, that its army is in the West Bank in order to protect the country from military attack. The Government of Mr. Begin has made it absolutely clear over the last four years that its principal objective is to take over large areas of the West Bank and to settle them with Jewish colonists.

Of all the activities of the Israeli authorities in the occupied territories, it is the creation of these colonies, or settlements, which most clearly illustrates how the rights of the Palestinians are being denied. There is no country in the world that supports this colonialist policy, although the position of the United States is usually ambiguous. Moreover, it is forbidden by the Fourth Geneva Convention of 1949 (of which Israel is a signatory), which declares that an occupier "shall not transfer parts of its population into the territory that it occupies".

The great colonization drive began in 1968 when a series of military settlements were established along the Jordan Valley. Once they had been built and prepared for civilians, they were handed over to settlers from the National Religious Party and other political groups. All these settlements and the ones that followed throughout Gaza and the West Bank were built on land owned by the Jordanian Government or on land belonging to nearby Arab villages. The Israeli Government pretends that only Jordanian state Land is used but it is difficult to find a single settlement that has not taken property belonging to an Arab village.

The confiscation of village land naturally undermines the local Arab economy. In some cases it destroys it altogether. When the Israelis established the settlement of Mehola at the northern end of the Jordan Valley, not only did they take 375 acres of land from the nearby village of Bardala; they also positioned their water tank directly above that of Bardala so that the villagers had no water at all except at the time of the spring rains. Similar behaviour ruined the economic life of the village of Rafidia near Bethlehem. The village lands used to consist of some 800 acres from which more than two thirds of the labour force earned their living. In 1973 about 700 acres were expropriated and handed on to the settlement of Tekoa and almost all the villagers lost their livelihood. Today they are part of the thousands who have to commute to Israel in search of work.

There are more than 70 Israeli settlements in the West Bank today. Another 50 are spread over Gaza, the Syrian Golan Heights and northern Sinai. They have been established on about 1,000 acres of Arab land and contain 95,000 settlers, most of whom are living in the annexed area of Jerusalem. In the agricultural areas of the West Bank, some 18,000 settlers are farming about 70,000 acres of land confiscated for the most part from the villages of the Jordan Valley and the regions of Bethlehem and Hebron. Adding these figures to the hundreds of thousands of acres taken by the Israelis for so-called security reasons, it can be seen than more than one third of the total area of the West Bank has been expropriated by the Israelis.

The Israelis claim that the land is underpopulated and that no harm is being done to anyone. Even leaving aside the villagers who have lost much of their property, this is a ridiculous assertion. In the West Bank today there are more than 300,000 refugees; in Jordan there are more than a million, many of whom are West Bank residents who fled in 1967. Surely, if the West Bank really was underpopulated, then the spare land should be used to accommodate those whose original homes have long been absorbed by Israel? It is clear evidence of Israel's complete denial of Palestinian rights that the Zionists, who in 1948 seized more than three quarters of the land of Palestine, should now be busily colonizing the meager remnant still left for the Palestinians.

The West Bank has no minerals and, apart from land, only one major resource: water. The area provides some 620 million cubic metres a year, which would be ample if they were all used inside the West Bank. From drillings inside Israel itself, however, 500 million of these are taken and used in Israel. Even the remaining 120 million are not left to the Palestinians, since an estimated 27 million are siphoned off for the settlements. In other words, each colonist receives about 1,500 cubic metres of West Bank water or about 12 times as much as each Arab, who receives about 124 cubic metres. Moreover, while the Israelis have drilled a large number of wells in the West Bank since 1967 and enjoy the use of others belonging to refugees, not one Arab has been allowed to drill a single irrigation well in the last 14 years. As Paul Quiring, who made a study of the subject during three and a half years in Jerusalem as representative of the Mennonite Central Committee, has reported: "This lack of water resource development, together with the confiscation of wells on 'absentee' property, means that there are fewer wells for Palestinian agriculture in the Jordan valley today than were available on the eve of the 1967 war."

Israeli colonization also takes place in the Gaza Strip, a narrow stretch of coast running for 40 miles down to the pre-1967 Egyptian border. Gaza was the only other fragment of Palestine to survive 1948 and it too was taken in 1967. It is wretchedly poor and overcrowded, crammed with more than 350,000 refugees as well as the native population. Standards of living are low and the camps are some of the worst anywhere. The refugees, who come from Jaffa and Beersheba, live in squalid huts mass-produced by the United Nations Relief and Works Agency for Palestine Refugees in the Near East. About 200,000 people live in the vast camps of Jabalia, Rafah, Beach and Khan Younis, most of them without prospects of employment or anything else.

After 1948, Gaza was administered by the Egyptians and its capture by Israel in 1967 cut it off both from Egypt and from the rest of the Arab world. This has made Gaza even more economically dependent on Israel than the West Bank, though its exploitation is managed in much the same way. The Gaza citrus industry, for example, is prevented from competing with Israeli growers. Usually the Gaza farmers sell their fruit to the Islamic Republic of Iran, Eastern Europe and the Gulf States, while the Israelis reserve for themselves the more lucrative markets in the West. In 1979, however, the Islamic Republic of Iran decided not to buy the three and a half million cases of Valencia oranges that Gaza normally exports. So the Israeli Citrus Marketing Board decided to sell the fruit through its own network. This piece of altruism disguised the real purpose behind the action which, according to the deputy director of the Board, was "to prevent uncontrolled competition with Israeli-grown fruit". As the Board well understood, the Gaza orange ripens a month earlier than the Israeli Shamouti and would compete with it in the West European export market. But the citrus grower in Gaza faces worse problems than this. Like the West Bank farmers who are prevented from drilling wells, the people of Gaza are not allowed to plant fruit trees. From the Israeli point of view they are inconvenient enough as it is, so no more may be planted. Even if it is a case of replacing a single dead tree, the farmer will have to get a permit from the Military Governor.

Employment opportunities in Gaza are even more limited than on the West Bank and so tens of thousands of refugees leave their camps each day before dawn to assemble at one of the labour markets near the border where they hope to be employed for the day by Israeli employers. From 4 a.m. the latter arrive - market gardeners and building contractors mostly - and the bargaining begins. The markets are crowded with people of all ages and there are hundreds of children, aged 12 and over, who are eager for work. Many employers prefer them because they are cheaper and easier to handle. Child labour if of course illegal in Israel and the Youth Employment Law of 1953 stipulates that "one may not employ a child under 16 years of age". But nobody does anything about it. There are no policemen patrolling the labour markets and no inspectors from the Labour Ministry. Obviously the children have neither insurance nor social security and, since their day's wages are very low, they are considerably cheaper to hire than adult labourers and about 10 times cheaper than an Israeli worker.

There are 26 settlements in the strip and in the Rafah salient to the south, many less than in the West Bank, but the area is so miserable and so overpopulated that they are obtrusive. They are still being established with the maximum degree of publicity and provocation. A site is chosen, the Israeli army moves in, barbed wire is erected and the flag is flown from the nearest piece of high ground. Over the following months concrete buildings are put up and the land is levelled by army bulldozers. Finally the planting begins and the greenhouses are erected. These colonies, smart and streamlined, inhabited by people who have no right of any sort to the land, make an unpleasant contrast with the wretched refugees in their shacks outside, separated from the colonists by great walls of barbed wire.

Although Israel has ruled the occupied territories for 14 years now and has made it clear that it has no intention of leaving them, the only area it has formally annexed is East Jerusalem. This annexation, which took place shortly after the 1967 war, was of course illegal and was condemned as such by the international community. A week after annexation, the General Assembly of the United Nations adopted a resolution calling "upon Israel to rescind all measures already taken and to desist forthwith from taking any action which would alter the status of Jerusalem". Not a single nation voted against this resolution except of course Israel and not a single delegate spoke in support of Israel's annexation. The Israelis replied the Jerusalem must never again be a divided city and insisted that the benefits of the so-called unification would be spread evenly over all sections of the population. During the years that followed, it was difficult to see much evident of this. Even the Jewish Mayor of the city (the Arab Mayor of the Old City was expelled to Jordan) regretted "the hard and sometimes offensive Israeli attitude" and criticized his Government's "complete lack of consideration" which the Mayor himself might have done something about, in the field of housing: while tens of thousands of new apartments were built for Jewish settlers on the outskirts of Jerusalem, nothing was done for the Arab inhabitants who live in overcrowded conditions inside the Old City. Not until 1979, 12 years after the start of the occupation, was the first Arab housing built - a collection of two-room houses near Bethany.

In the years following the 1967 war, the Israelis expropriated some 30 acres of buildings inside the Old City on the site of the traditional Jewish quarter. Even before 1948 the area was less than 20 per cent Jewish owned but this did not prevent the Israelis from taking it all and forcing more than 5,000 Arabs from their homes in the process. Outside the walls the confiscations were on a grander scale: during the first five years of the occupation, nearly 4,000 acres of Arab land were expropriated in Arab Jerusalem. During the last 14 years, about 25,000 acres in the East Jerusalem region have been taken for Jewish building sites and nearly 80,000 settlers are now living on Arab lands in the annexed area.

No people could have been expected to tolerate such constant abuse of its rights and the Palestinians have tenaciously opposed the occupation. The oppression to which Israel has resorted in order to extinguish any sort of resistance, civilian or military, to its rule, has been documented by, among others, the International Committee of the Red Cross (ICRC), Amnesty International, The Sunday Times of London, the United States National Lawyers' Guild, the Israeli League for Civil and Human Rights and the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories. The conclusions that these organizations arrived at indicate that the Palestinians under occupation possess not even the most elementary democratic rights. As Michael Adams, a British writer and former correspondent of the Guardian in Beirut, has written:

> "Palestinians in the occupied territories have enjoyed since 1967 no rights and no representative institutions. There is no authority to which they can appeal, no protection which they can invoke. Their every movement and action is subject to the arbitrary authority of the Israeli Military Governor. They can be detained, imprisoned, deported without the intervention of any tribunal. Their houses and property may be destroyed, their lands confiscated, their crops burned and their trees cut down."

Israeli oppression is directed against various targets. Individuals who are considered political obstacles to the occupation are as vulnerable as those suspected of military activities. But it does not stop at individuals because the Israeli Government is a firm believer in the principle of collective punishment. As practised in the West Bank and Gaza, this means that the inhabitants of houses, villages or even towns can be punished because of the activities of one man over whom they have no control. Recently development funds for Nablus were blocked because the town's mayor had held a conference with the mayor of Hebron against the orders of the Military Governor.

One of the most popular forms of collective punishment is the curfew, which can be imposed without warning on towns, villages or refugee camps. If a couple of schoolchildren are caught throwing stones at army vehicles, the Israeli authorities are likely to impose a 22 or 23 hour a day curfew lasting for two or three weeks on all the inhabitants of the camp or village where they come from.

A more drastic form of collective punishment is the demolition of houses. The President of the Israeli League for Civil and Human Rights has revealed that during the first four years of the occupation, 16,312 homes were destroyed by Israeli forces for so-called security reasons. The Israelis do not pretend that all these houses belonged to terrorists. As long as they are owned or rented by relatives of suspected terrorists, then they can be considered far game for the army bulldozers. And invariably, the demolition takes place before the suspect is brought to trial.

The logic behind these forms of retribution hardly needs clarification. The policy is simple and ruthless, clearly designed to make the Palestinian population realize that it is going to suffer more than the Israelis if violent resistance continues. The aims of Israel's other policies are equally clear: the deportation of hundreds of West Bank leaders and interference with the area's education system are methods calculated to prevent the emergence of an articulate nationalist leadership. To this end, schools, training centres and universities are subjected to regular harassment by the army and many of them are periodically closed down. Last year, scores of schoolchildren demonstrating against this interference in their schools were shot and wounded by Israeli soldiers.

Bir Zeit University near Ramallah is the best university in the region and the oldest Arab institution of higher education on either bank of the River Jordan. Yet, although it has high educational standards, it does not confine its activities to academic work. It plays a central part in West Bank life, seeing itself as a focal point for Palestinian aspirations and it takes its community work seriously. It has a literacy programme consisting of 12 centres in the West Bank and Gaza and undertakes a large amount of similar work such as courses for teachers and school-building projects in the refugee camps. The Israeli authorities naturally find Bir Zeit a highly inconvenient institution and regard it as a centre of subversion and terrorism - although not a single faculty member has ever been found guilty of any "security" offence. Since 1973, the university has been subjected to constant interference. Its teachers' course has been permanently closed down, its president deported, its lecturers refused work permits and planning permission for its new buildings rejected. On several occasions, army units have stormed the campus, beaten up large numbers of students and confiscated several hundred identity cards.

Bir Zeit's President, Dr. Hanna Nasir, was one of 1,160 Palestinians deported from the West Bank and Gaza between 1967 and 1980. Compared with the mass expulsions during the 1948 and 1967 wars, it is not a high number yet it includes large numbers of the most prominent Arab leaders in the territories - teachers, doctors, lawyers, journalists, students, etc. Among the 54 deportees from Jerusalem are the Mayor, the President of the Islamic Council, a former Foreign Minister of Jordan, a trade union leader, and the Director of the Maqasid Islamic Charities Hospital. Politicians are among the most favoured candidates for expulsion. The Mayors of Ramallah, Bira, Hebron, and Halful have all been deported. Two days before nominations closed for the municipal elections of April 1976, candidates for the mayorship of Hebron and the Bira council were expelled to Lebanon while their appeals to the courts against their deportation were still pending. It is a tragic fact that nearly all the mayors of the West Bank's larger towns have either been expelled from their homeland or have been the victims of assassination attempts by Israeli terrorists.

In this manner Israel manages to eliminate the Palestinian leadership in the occupied territories. Behind this policy stands the same reasoning that advocates collective punishment. If enough people are punished - even if they are completely innocent and have never been accused of a particular crime - then the others will be discouraged from any kind of criticism of the occupation. The aim is to cripple the leadership and to dampen any feelings of nationalism. As a policy, it may be added, this has been a total failure for nationalism in the West Bank is infinitely stronger today than it was a decade ago.

There is one further method of oppression that must be mentioned and that is the practice of torture. Incidents of torture are of course difficult to prove since they rarely involve witnesses whose testimony is likely to be accepted. Although there is not enough time here to discuss all the allegations of torture made against the Israelis or to comment on the Israeli denials, it should be pointed out that a number of impartial bodies have produced evidence indicating that torture is frequently used against the Arabs of the occupied territories. These include The Sunday Times of London, Amnesty International, the United States National Lawyers' Guild and ICRC. As The Sunday Times insight team reported in the summer of 1977: "Israeli interrogators routinely ill-treat and often torture Arab prisoners ... Prisoners are often hooded, blindfolded, or hung by their wrists for long periods. Many are sexually assaulted. Others are given electric shocks".

Israeli apologists often repeat the well-known cliché that its rule in the occupied territories constitutes "the most benevolent occupation in history". It is difficult to see how anybody could be taken in by this claim. One only has to go to the West Bank and Gaza to see how the rights of their inhabitants are being systematically denied by the occupation authorities. For so-called security or other reasons, an Arab can be deported or arrested and held without trial; his home can be destroyed and his children shot at. But for him, perhaps the most puzzling thing of all is that fact that land that his family have farmed for generations can be taken from him simply in order to allow Jewish emigrants from the United States and elsewhere to live on it.

G. AN ANALYSIS OF THE LEGAL STRUCTURE OF ISRAELI SETTLEMENTS IN THE OCCUPIED WEST BANK OF JORDAN

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Introduction

Purpose and objective

In this paper, it is my aim to examine the legal structure of the settlements established on the West Bank using the military orders on this subject passed by the General Commander of the West Bank. The choice of turning the settlements into local councils is examined in the light of the law that existed at the time of the British Mandate over Palestine, Jordanian law and the provisions of the Camp David agreement. A comparison is then made between the law applicable to the Arab municipalities and the regulations governing the administration of the Jewish local councils in the West Bank. The relationship between the local councils and the Military Government of the West Bank and the State of Israel and its laws is explained. The main sources of this paper are the ordinances passed during the time of the Mandate, Jordanian laws, Israeli laws and the military orders and regulations passed by the Military Commander of the West Bank.

I have not discussed here the legality of the Jewish settlements because a discussion of this was given in the paper entitled "A juridical analysis of the Israeli settlements in the occupied territories" presented by Mrs. Sally Mallison at the Seminar held at Vienna from 25 to 29 August 1980 (see sect. II F above).

Part one

A. The period of the British Mandate

It was the fulfilment of the terms of the Mandate, that is the establishment of a national home for the Jews, that was expected to determine the policy and legislation of the Government of the British Mandatary in Palestine during the years 1922 to 1948. This is clearly borne out by the reports of the United Kingdom submitted to the League of Nations throughout the years of the Mandate. Article 2 of the Mandate runs as follows:

> "The Mandatary shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish national home, as laid down in the preamble, and the development of self-governing institutions, and also for safeguarding the civil rights of all the inhabitants of Palestine, irrespective of race and religion."

Towards that end, the Land Transfer Ordinance of 1920 was passed. Its purpose was to give the Government the power to control land acquisition to ensure that lands in areas designated for Jews did not get transferred to Arabs. Also in furtherance of the policy of allowing a degree of self-rule for the Arab and Jewish communities in the areas where they constituted the majority as a preparation for the realization of the terms of the Mandate, the Mandatary Government embarked on a series of amendments to ordinances concerning local government.

A new Municipalities Ordinance was passed in 1934.[1] Amongst its objects and reasons, as explained while the bill was in progress, were the following:

> "2. The bill provides that the municipalities existing at the present time and the township of Tel Aviv shall become municipalities and the High Commissioner is given power, after consulting the views of the public concerned, to establish more municipalities or to abolish municipalities or to vary the existing municipal limits.
>
> "3. The bill provides that the affairs of municipal corporations shall be managed by elected councils, elected by direct election. The qualifications of electors are the same as the present qualifications except that community rolls have been abolished. The High Commissioner is however given power on the representation of a council to change the qualifications of electors. The object of this provision is to meet the great difficulty which is experienced in providing a method of election satisfactory to all elections.

"4. The High Commissioner is given power at his discretion when it appears to him necessary in the interest of good government to nominate not more than two councillors to the municipalities of Jerusalem and Haifa. The object of this is to provide for the representation of elements of the population - such as foreign communities - which might not otherwise be adequately represented.

"5. The bill contemplates that councillors will ordinarily be elected for the whole of the municipal area but the High Commissioner is given power when it appears to him desirable to divide a municipal area into divisions for the purpose of elections. This is intended to facilitate the holding of elections in certain areas such as Jerusalem and Haifa possessing a mixed population".

The Municipalities Ordinance of 1934 declared all the towns mentioned in its appendix to be municipalities. The list includes 234 municipalities. Another appendix to the ordinance makes special provision for election of councillors for the municipality of Tel Aviv. The most important of these is that, whereas for the 22 other municipalities the candidate must be a male, holder of Palestinian citizenship, of at least 30 years of age, for the Tel Aviv Municipal Council, the only conditions are that candidates be at least 25 years old, that their permanent place of residence be within the municipal area and that they have paid all taxes and rates due to the Council during the past 12 months. No provision as to sex or possession of Palestinian citizenship is stipulated.

Then in 1941, the Local Councils Ordinance was passed.[2] It repealed the previous ordinances on the same subject while declaring in article 13 that all local councils constituted by any order made under the previous ordinances would continue in existence. The list of these councils under the previous ordinances includes Arab and Jewish local councils.

An important addition in the ordinance of 1941 was made in article 2 (1) whereby the High Commissioner was empowered, on the recommendation of the District Commissioner, to declare by order not only that any village, or group of villages, would be administered by a local council, but that any area might also be so administered. This is an important addition and was presumably made to enable the High Commission to declare a Jewish area falling within or outside a town populated by an Arab majority and administered by a municipality elected by the majority of a local council, thereby giving the Jews there the power to administer themselves and thus facilitating their independent development. Then in 1944, the Village Administration Ordinance was passed[3] which defined a village as "an area which has been or which may hereafter be declared to be a village or tribal unit under article II of the Palestine Orders in Council, 1922 to 1940. The said article II states that "the High Commissioner may, with the approval of a Secretary of State, by proclamation divide Palestine into administrative divisions or districts in such manner and with such subdivisions as may be convenient for purposes of administration describing the boundaries thereof and assigning names thereto. The village council, which is responsible for the administration of the village, consists of the mukhtars of the village ex officio in addition to 3 to 12 other members "chosen by such categories of persons ordinarily resident in the village area and in such manner as may from time to time be approved by the District Commissioner".[4]

What in fact happened in Mandated Palestine was that many of the Jewish municipalities and local councils grew often at the expense of the nearby Arab municipalities or local councils. With the establishment in 1948 of the Jewish State, this policy was pursued systematically and the present situation of Jaffa and Tel Aviv is a good example of it. Whereas Jaffa before 1948 was a flourishing seaport and the bigger municipality with Tel Aviv considered in size and importance as a mere Jewish suburb, the situation now is reversed: Jaffa has become the suburb administered by the greater Tel Aviv Municipal Council.

B. The Jordanian period

The 1948 war eventually led to the control of the West Bank by the Hashemite Kingdom of Jordan. Article 105 (I) of the Jordanian Municipalities Law[5] declared all previous Ottoman, Jordanian and Palestinian laws dealing with municipalities and local councils repealed, provided that "all municipalities and local councils existing at the date of the coming into force of this law shall be considered municipal councils by virtue of the provisions of this law and shall continue to carry out their functions until replaced by municipal councils elected in accordance with the provisions of these laws".

It is clear therefore that the administrative unit, the local council, ceased to exist in the West Bank under the Jordanian regime. The only administrative unit that remained in addition to municipalities was the village.

The Law for the Administration of Villages (No. 5) of 1954 defined a village as "any place which the Minister of Interior declares in the Official Gazette to be a village or a tribal unit".

The Jordanian Government did not have to deal with the existence of any minority group of non-Arabs and had no mandate to facilitate the creation of any State for the Palestinians or any other group so the local government laws were simplified to provide for only the above-mentioned two units to administer populated areas.

C. The Israeli occupation

After 1967, the settlement of Jews in the West Bank started. The priority however was for settlement of the enlarged East Jerusalem area. But since Jerusalem was annexed to Israel and Israeli law therefore applied to the settled areas, no change to the law in force in the West Bank was necessary.

In fact, despite the gradually increasing settlement of Jews in the West Bank, the major changes in the law were only made on 25 March 1979.

The legislation previous to that date consisted only of a few military orders declaring the creation of what were called "religious councils" for the administration of specific settlements and regulations for their administration such as Order No. 561 of 1974 for the administration of Kiryat Arba settlement. The most important post-1979 orders that were passed by the military government of the West Bank on the subject of the settlements are Order No. 783 (of 25 March 1979) and Order No. 892 (of March 1981). The former provided for the creation in the West Bank of regional councils defined as follows: "Any one of the settlements listed in the appendix to the order which is given the name appearing in the appendix ...".[9] Article 2 of the Order states that the administration of a regional council shall be in accordance with the manner in which the area commander shall decide in regulations.

Subsection (b) of article 2 states that no regulation passed by virtue of the above shall detract from any law or security regulation unless specifically so stated (or unless stated clearly in any other order or regulation). This subsection was later repealed by Order No. 806 dated 30 September 1979.

It is noteworthy that, although military orders are eventually published in very restricted numbers in what are called volumes of Proclamations, Orders and Appointments; such regulations for the administration of settlements as are mentioned above are not published in these volumes. Volume No. 45, for example, which is the most recent and which was published on 24 September 1980, includes Order No. 783 but not the regulation for the administration of regional councils made by virtue of it. Article 149 of the basic regulations, passed by virtue of Order No. 892, states that these regulations shall be published (a) by posting them on the notice board in the offices of the council and (b) in the collection of the council's regulations.

Of course, the general Arab public has no access to the Council's offices or its books, which means that these regulations will be unavailable to the general public. It also means that whenever the General Commander of the West Bank prefers that a certain order be immune from public security, he can call it a regulation and declare that its manner of publication be in the manner mentioned above.

The second major legislation on the settlements is Order No. 892 on the administration of local councils, dated 1 March 1981. By virtue of article 2 (a) of this order, regulations were passed setting out the rules for the administration of local councils, the provisions of which I shall analyse and comment on at length later on in this paper.

It is clear from what has been mentioned above that the administrative units, regional and local councils did not exist under Jordanian law and that a change in Jordanian law, the law in force in the West Bank, was necessary in order to create such units. It is also interesting to observe that the same policy, with of course the adjustment necessitated by the different conditions and realities, as was pursued by the Mandatary Government, seems to be the guiding policy of the Israeli Government in its administration of the West Bank. Local councils are created to administer areas populated by Jews and are given more powers and more facilities for development, as the analysis below will show, than the municipal councils administering areas populated by Arabs. The goal seems to be that the former become the dominant units and the Tel Aviv/Jaffa situation be repeated so that eventually, as Arab Jaffa was incorporated into Jewish Tel Aviv, so would the Beit Eil local council incorporate Ramallah.

It is perhaps this objective and long-term policy that determined the choice of creating for the settlements a new administrative unit that did not exist before under Jordanian law rather than using the already existing units - the villages or municipalities. The present structure enables the Military Government to legislate independently for Jewish and Arab areas. It is well known that extensive changes (at present the number of military orders is 920) have been made to Jordanian law. The likelihood is that this practice will not stop. However, these changes are selective and are determined by the policy that the Israeli Government wishes to pursue on the West Bank. Therefore, the Municipality Law, with one exception which will be discussed below (Order No. 631, which empowered municipalities to establish municipal courts), has not been changed to give more powers to the municipal councils. On the contrary, whenever possible, changes in the law are made or directives or regulations are issued to decrease the power and the ability of the council to operate and implement plans for the development of the areas for which it is responsible. A recent example of this is the enforcement of restrictions on municipalities without an approved town planning scheme to issue building permits and the transfer of this power to the Higher Town Planning Council constituted exclusively of Israeli officials. Not so with the Jewish areas, the regional and local councils. The powers already given to them by virtue of the orders and regulations analysed below are already extensive and there is no limit to or restriction on making new changes extending them as the need arises. Had both communities been subject to the same administrative unit, and therefore to the same laws and orders, then whatever changes are made to the legislation in force affecting one would affect the fate and conditions of both communities. As things have been organized now, the separate and ambitious development plans intended for the settlements proceed independently of the nearby Arab communities.

D. The post-Camp David period

It is not accidental that all the legislation affecting the settlements and the increased thrust of settlement activities began only in March 1979 after almost 12 years of occupation. The date of the signing of the Framework for Peace in the Middle East agreed at Camp David was 5 September 1978. Some of the provisions affecting the West Bank in the agreement did not at all please those who had already settled in the West Bank and those intending to do so.

It is perhaps not too far-fetched to suggest that the activities and legislation in the West Bank, which followed the signing of the agreement, indicate the intentions which the Israeli negotiators had in mind when they negotiated the wording of the agreement and agreed to sign it as presently worded.

It is not accidental that only in article 1 is the expression "Palestinian people" used. Elsewhere in sections A.1 (a), (c), (c) 1, (c) 2, etc., the reference is to the 'inhabitants of the territories (i.e., the West Bank). The clarification acknowledged in President Carter's letter to Prime Minister Begin on 22 September reads, "in each paragraph of the agreed framework document the expressions 'Palestine' or 'Palestinian people' are being and will be construed and understood by you as Palestinian Arabs". No clarification is sought or given about the expression "inhabitants of the territories". Does it refer to Arab inhabitants or any inhabitants, Arab or Jewish?

Obviously without clarification it will mean what it stands for, i.e., any inhabitant, whether Arab or Jewish. This choice of expression was therefore made carefully and the activities ensuing after the agreement made it clear what the intention was and what the result of the implementation of the provisions of the Camp David agreement will really mean to the Jewish settlers in the West Bank.

Even the limited powers that the Camp David agreement provide for the Palestinian Arabs will, under the newly created reality which Israel has been busy creating and because of the careful wording of the Camp David agreement, have to be shared by the Jewish and Arab inhabitants of the area. The concentrated activities aimed at creating more settlements and bringing more Jews to live in them while changing the legislation to facilitate their independence and growth were intensified after Camp David.

Although at present the Arabs constitute the majority of the inhabitants of the West Bank there is no assurance that the elections for the self-governing authority envisaged under the Camp David agreement will proceed on the basis of proportional representation rather than on a regional basis. If the latter is the method then in view of the large number of settlements already established, Jewish representation in that authority will be substantial. In this way the limited concessions Israel seemed to be making in the Camp David agreement will have been forfeited.

Part two

A. The Jordanian Municipalities Law

It is important to point out, before analysing the Jordanian Municipalities Law, that all the powers vested by that law in the King, the Council of Ministers, the Ministers of Interior and Finance, have been vested by virtue of Military Orders 194 and 236 in the hands of the "person responsible" who is appointed by the Commander of the West Bank. As will be seen later, the Military Commander also appoints a "person responsible" who has certain powers according to the regulations applicable to the local councils.

It will be clear from the survey below that Jordanian law has vested ultimate authority in many areas affecting municipalities in government ministers. Whereas these powers are now enjoyed by the "person responsible", who is appointed by and serves the military Government that is responsible for the creation of the settlements on the West

Bank, it is to be expected that he will use his power to ensure that the growth and development of the municipalities do not jeopardize that of the settlements. In practice he uses his authority, wherever possible, to limit and discourage the growth of these Arab centres. All this of course is contrary to how his counterpart relates to the local councils, whose establishment and development is the policy of the Government he serves. Unlike the case with the Arab inhabitants, Jewish settlers have direct access to the legislator in the military Government. They are therefore able to bring about the best conditions for their development even when this is at the expense of the nearby Arab centres. The Jordanian Municipalities Law of 1955, which replaced the 1954 law, specifies in article 5 how a new municipality may be created. The article states that if the majority of the inhabitants of a village wish to create a municipality in the village, a group of them may submit a petition to this effect to the District Commissioner (a function that has been abolished by the military authorities) who must then submit it with his observations to the Minister of the Interior. Since this function is now performed by an officer of the Israeli army, why then did the military authorities decide to turn the settlements not into municipalities but rather into local councils?

A justification for the choice could be based on the provision in Jordanian law which stipulates that the candidates must, amongst other things, be Jordanian male citizens.[7] However this can easily be rebutted by pointing out that the military authorities have already amended this article by removing the condition as to sex, giving the franchise to women. They could have made a further change and eliminated the condition that the candidates and electorate must be Jordanian citizens. It is clear, therefore, that it was not any legislative difficulty that determined the choice of turning the settlements into local councils rather than municipalities. Nor is the reason the independence of the municipal councils from the military authorities. As has been mentioned above, Jordanian law gives more power to the Government than the powers which the regulations for the administration of local councils, which were made by the military authorities, leave for the Commander of the area or the person appointed by him to be the "person responsible".

The more likely reason for the choice seems to be the desirability to have separate administrative nits for Arabs and for Jews to permit separate and independent legislations and policies for growth and development.

B. A comparison between the Municipalities Law and the regulations for the administration of local councils

For the purpose of establishing local councils, Military Order No. 892 concerning the administration of local councils was promulgated on 1 March 1981.

The Order defines a local council as any one of the settlements mentioned in its appendix, the boundaries which are shown by the black line on the map signed by the Area Commander. In article 2, it states that local councils shall be administered in accordance with principles laid down by the Area Commander in regulations. The Area Commander may, for the proper administration of a local council, establish courts for the affairs of the council and he shall determine the jurisdiction of the court, the law which it shall apply, its constitution as well as any other necessary matter for the proper administration of the court (art. 2(b)). Article 5 states that nothing in this order or in the regulation to be made by virtue thereof contravenes any law or security regulation unless there is a provision in the orders or regulations which clearly contradicts this. As to the publication of the regulation, it is to be done in the manner which the Area Commander shall specify.

The regulations for the administration of local councils are also dated 1 March 1981. Following is a comparison between the provisions of these regulations and the Jordanian Municipality Law.

The first thing that is striking is the length of the regulations. They consist of 152 sections as compared to the 65 sections in the Jordanian Law. They are therefore the longest single piece of legislation produced by the West Bank military Government authorities during the 14 years of occupation.

The Jordanian law, as has been mentioned above, gives the Council of Ministers and the Minister of Interior important powers over the municipal council. The Council of Ministers, on the recommendation of the Minister of Interior, may dismiss a major if he is convinced that this serves the interest of the municipality. His decision is final and is not subject to any form of appeal.[8] Similarly, the Minister of Interior, with the agreement of the Council of Ministers, may appoint in addition to the elected members, two members to any municipal council and "these two members shall enjoy all the rights of the elected members".[9] No similar powers are given to any official in the military Government by virtue of the regulations.

Both the municipalities and the local councils are juridical bodies.[10] Both councils are empowered to administer the affairs of their areas and to exercise the powers mentioned in section 68 of the regulations and 41 of the Law, which are compared below. However, unlike the municipal council, the local council has the power to appoint committees for the execution of certain functions.

1. Functions

The municipal council has the power over such areas and functions as roads, buildings (this now has to be looked upon in the light of the new regulations restricting the granting of licences by the municipal council in its capacity as local town planning authority, reference to which has been made in above), water, electricity, gas, sewage, crafts and industries, health, cleanliness, public places, parks, etc.; in all the list encompasses 39 areas. Some of these powers are similar to the powers given to the local council.[11] It is also empowered to administer, implement and establish services, projects and institutions which the council believes are important for the welfare of the inhabitants living within its area.[12] It is also empowered to oversee the development of the local council, the improvement of life in it and the development of the financial, social and educational affairs of its inhabitants or any sector of them.[13] It can also organize, restrict, or prevent the establishment or administration of any service, project, public institution or any other organization, craft work or industry of any kind.[14] It is also empowered to oversee irrigation, pastures, soil preservation and any other matter of agricultural significance provided that it is administered for the benefit of the various farmers within the area of the local council.[15] The council may establish any corporation, cooperative or any other organization for the execution of any of its functions and buy shares in it.[16] It is also empowered to prepare facilities for emergencies and to operate them in time of emergency including the organization of rationing and provision of the necessary services.[17] The council is also empowered to give certificates and issue licenses for any of the matters included within its powers.

The council administering a local council may, according to article 88 of the regulations, with the agreement of the "person responsible", make regulations concerning any matter over which the council has jurisdiction. By article 93 these regulations shall be considered as security legislation issued by the Area Commander. They shall be published by posting on the notice board in the offices of the council and in other public places within the area of the local council or in any other way the council shall decide. Municipal councils on the other hand may make regulations only after a decision to this effect is taken by the Council of Ministers with the agreement of the King.

2. Taxes

A local council may, with the agreement of the "person responsible", impose taxes called "arnona", membership fees and other obligatory payment.[18] The council is empowered to impose any additions on the arnona after publishing a notice to this effect in the area of the local council. The council may reduce the tax or fine for late payment taking into consideration the financial situation of those on whom it is levied or for any other reason to which the "person responsible" agrees.[20]

A municipal council, on the other hand, may impose taxes on vegetables and fruits for sale in the market, or for any of the other matters mentioned among its powers in article 41 of the Municipalities Law, the amount and percentage of which is determined in regulations issued by the council with the agreement of the Council of Ministers.[21]

3. Finances

A municipal council may borrow money only after obtaining the loan agreement of the Minister of Interior, who will consider who the lender is and the purpose for which the fund is to be used.[22] It is on the basis of this article that many municipalities in the West Bank are prevented from collecting money contributed to them from Palestinians outside.

Property tax payable to the municipality is collected by the Ministry of Finance[23] and the customs authority collects customs duties on combustible liquids according to percentages specified in the law.[24] By virtue of article 52, all funds collected for the municipalities by the Ministry of Finance are kept in trust for the municipalities and distributed in the percentage which the Council of Ministers, on the recommendation of the Minister of Interior, decides according to the criteria mentioned in article 52(2), provided that some of these funds may be allocated to finance other matters.

The yearly budget drawn up by the municipality is acted upon after it is approved by the Council and authorized by the Minister of Interior.[25] Similarly, a local council needs the approval of the "person responsible" for its yearly budget.[26] However, a local council does not need to get approval for borrowing money or receiving contributions.[27]

The accountant who inspects the finances of the municipalities is decided upon by the Council of Ministers. However, a local council appoints its own accountant. Also, the Minister of Interior, with the agreement of the Council of Ministers, publishes regulations as to the proper administration of the municipalities' financial matters. A local council, however, has the discretion to administer its own finances without any interference. Regulations are made for the municipalities as to tenders, the purchase of material and all other financial matters. A local council decides these matters without interference except when the sale involves a monopoly or a concession.

Chapter 16 of the regulations mentions powers that the Area Commander and the "person responsible" has in special cases. These include interference in the administration of the local council if they see that the council if failing to carry out any of its function under the Regulations or under a security order. In case of emergency and when there is no possibility for convening the council to take a decision that needs to be taken by the council in session, the "person responsible" may order the head of the council to take any action in accordance with the regulations if he deems that the prompt execution of such action is necessary for the safety of the members of the council. The Area Commander may also appoint a new council if it has been proven to him that the council does not carry out its duties according to the Regulations or that there are financial misdealings. But he can do this only after he has warned the council and it did not take heed of his notice.

Part three

A. The settlements' court system

By article 125 of the regulations, a Court of First Instance and a Court of Appeals are established for the local councils. The Court of First Instance has jurisdiction to look into any act committed contrary to the regulations, violations of any regulations made by virtue of the regulations and any violation committed within the local council against any law or order mentioned in the appendix to the regulations. The Court is empowered to impose any penalty specified in the regulations, in the regulations made thereby, and in the laws and orders mentioned in the appendix[28] except for violations of election rules mentioned in part 3 of the regulations.

The regulations, as they stood on 1 March 1981, mentioned only the Jordanian Law of Town Planning in the appendix. However, as is clear from the above, more laws can be added and these need not be Jordanian laws because the regulations do not restrict the court's jurisdiction to look into violations of Jordanian laws but says "any law mentioned in the appendix". In view of the provision in the regulations that states that this or any other regulations made by virtue of it or in any other way need not be published except in the offices of the local council, it is possible that the jurisdiction of the court might be enlarged without the knowledge of anyone outside the settlement.

The judges of the settlements' courts are appointed by the Area Commander.[29] Judges for the Court of First Instance are appointed from among magistrate judges, and for the Appeals Court, from amongst judges of the District Court.[30] Whereas the juridical system in the West Bank does have District Courts, the implication is that the choice will be from among Israeli District Court judges.

It is important to note here that no connection is made between the West Bank judicial system and the system of settlements' courts. For the West Bank, the Minister of Justice has been replaced by the officer in the Israeli army in charge of the judiciary. Judges for West Bank courts are chosen by a committee composed of military officers of whom no mention is made in the regulations, where the choice of the settlements' judges is left to the Area Commander. And although no formal connection with the Israeli judicial system is established, no judges would be from amongst judges chosen in accordance with Israeli laws to serve in Israeli courts.

As with judges, the Area Commander also chooses the public prosecutor.[31] The Appeals Court sits anywhere the Area Commander designates.[32]

The procedure and the rules of evidence that the Appeals Court applies are those applied in Israeli courts. The Court also has all the powers held by an Israeli Magistrate Court as regards subpoena of witnesses and any other matter related to the hearing of a criminal case. Similarly the Appeals Court has all the powers of an Israeli District Court in Israel when it convenes as an Appeals Court. Furthermore, the Court has all the powers given to military courts when it looks into the violations of laws and orders mentioned in the appendix.[33]

The Court may impose fines that are paid to the treasury of the local council.[34] If a fine is not paid the Court may sentence the violator with actual imprisonment for up to one month. It is natural to ask how the Court will execute its judgements. Will it use the West Bank execution departments and police or the Israeli or will it have its own? But this is not the only question which the regulations leave unanswered. What categories of people does the Court have jurisdiction over? If a Palestinian is brought to appear before it, can he deny its jurisdiction over him and claim that only a local Arab court has that right? And when does the military court have jurisdiction over violators of military orders if these orders are mentioned in the appendix to the regulations? From the wording of the regulations, it is possible for the settlements' courts to assume the powers of the military courts, which implies that the settlers are not only given autonomy but also power over the local Arab Palestinian population.

B. The municipal courts

Until January 1976, municipalities had no courts nor did Jordanian law give them the power to establish any. By Order No. 631, however, municipal courts were established. To date only the Bethlehem Municipality has applied in accordance with the Order and has acquired a municipal court of its own.

According to Order No. 631, as amended by Order No. 713 of 10 June 1977, the officer-in-charge of the judiciary is responsible for the municipal courts.[35] The judges for the court are appointed by the officer from amongst magistrate judges who serve in West Bank courts.[36] No Appeals Court may be established and the court's decisions are appealable through the West Bank Court of Appeals.[37] The court shall apply the rules of procedure and evidence applicable in criminal cases in Magistrate Courts.[38] The court shall have jurisdiction to hear violations against the regulations of the municipality and any violations committed within the area of the municipality that are listed in the appendix, which includes nine laws. The municipality is empowered to execute judgements issued by its court. Although the municipality is empowered to appoint from amongst its employees the officers of the court,[39] these employees are responsible to the officer-in-charge of the judiciary who may issue instructions to the municipality to change any officer or to cancel his appointment. He may also appoint any employee of the West Bank Ministry of Justice to the court.[40]

Part four

Defence of the settlements

A number of related orders need to be discussed when considering the powers and functions of a local council. There are the orders dealing with what is called "the defence of villages". These orders are modelled after the Israeli law of 1961: the Local Authorities Regulation of Guard Service Law.[41] This Law defines in its preamble "the officer-in-charge of the guard service" as a person whom the Brigadier-in-Command or a person empowered by him has appointed to be the officer-in-charge of the guard service, provided that where the guard service is in the hands of the police, the Brigadier-in-Command shall empower the person responsible on behalf of the police for the guard service. "Guard service" is defined to include exercises and any activity which, in the opinion of the officer-in-charge of the guard service, is required for protecting the security of the inhabitants of a settlement or their property and "local authority" is defined as a municipality or a local council. Article 2 of the Israeli law states that "the Minister of the Interior may, after consultation with the Minister of Defence, impose, by order, the duty of guard service on the inhabitants of any settlement or settlements...".

The connection with Israeli law does not stop at the level of providing a model for the military orders on the same subject. Article II of Order No. 432 of 1 June 1971, the first of the orders passed by the West Bank military commander concerning guard duty, provides that whoever is injured while performing guard service shall be considered as one who has been injured during performance of guard service in accordance with the above-mentioned Israeli law. This direct reference and application of an Israeli law is one of the first to be made in the military proclamations in force in the West Bank.

Order No. 432 defines a village (in Hebrew "Yeshuv" means any Jewish populated centre, large or small) as one which was established after 1967. Where only settlements have been established after 1967, the Order clearly refers to settlements. Defence is defined as training or any other activity deemed necessary by the person appointed by military commander of the West Bank as the officer responsible under the Order. The officer is empowered by the Order to impose upon every settler the duty to defend the settlement. He is also empowered to appoint an authority to carry out the defence. Order 669 amended the definition of a resident in Order No. 432 to include "whoever lives in village and is registered as a resident in its registers whether he was from the West Bank or from Israel and who does not carry out guard duty in any other village". The Order also determined the age of the person eligible for guard duty as from 18 to 60 and provided that whenever guard duty is imposed on a person, he shall be presumed to be eligible as long as he has not proven otherwise in the way that shall be provided by the Order. A fine is imposed on a person who refuse to carry out the guard duty. Order No. 817 empowers the director, who is defined in the Order as "whoever has been appointed director of guard duty according to Order 432" to oblige pupils of an institution (defined as a kindergarten, elementary school, junior high school, field school, advanced education institution, children's vacation enterprise, boarding school, youth and sports cultural centre, institution of higher education, yeshiva or any other institution in which education is provided), aged over 16 to do guard duty as well as the pupils' parents, the principal of the institution, the teachers and workers.[42] A director may also oblige the parents whose children are at an institution to do guard duty. In special circumstances, the director may order that an institution be guarded by paid policemen.[43] If the director believes that facilities must be installed in the institution for its protection, he may, with the consent of the police, order the institution's owners to install them.

Order No. 844 of 18 June 1980 increased the number of hours of guard duty per person to 6 hours per week unless the director orders that the number of hours be increased to 10 per week for 30 days. An increase above 10 hours needs the approval of the Area Commander.

A fifth amendment to the original Order[44] substantially increased the powers of the settlers. Article 3 of Order No. 898 empowers them:

(a) To oblige any person whom the settlers have any reason to suspect of having committed any offence contrary to any military order to show them his identification card;

(b) To arrest any person whose identity has not been proven and to transfer him to the nearest police station;

(c) To arrest any person without a warrant:

(i) If he commits before him a felony punishable by five years' imprisonment or if he has any basis which makes him believe that a person has of late committed a misdemeanour or a felony punishable by the military orders with five years' imprisonment; or

(ii) If he saw him in suspect circumstance taking precautionary measures to disguise himself without being able to give any reasonable explanation of his actions.

A person who arrests another in the above circumstances must hand him to the police as soon as possible. Anyone refusing to obey the orders of the settlers will be considered as one contravening the military order on security of 1970.

Appended to the Order is the format of the card which the settlers will be issued. The above powers are printed on the card.

As with all the other 921 military orders already in force in the West Bank, the power to interpret the provisions of this order are vested in the military courts.

It has been common practice for the settlers to exceed their powers of guard duty and interfere with the Arab inhabitants of the West Bank. There have been many reported incidents when they have set up and manned roadblocks, searched passers-by, attacked nearby villages and made the villagers' lives intolerable.

Two reservists were quoted in the Israeli English-language newspaper, The Jerusalem Post as saying after Jewish student settlers from the local yeshiva and from Kiryat Arba in Hebron manned the army checkpoint alongside them, "This is the first time and the last time we will serve in this area". The settlers had joined them at the checkpoint because they said they preferred to defend themselves after the incident in Hebron where several of them were killed.

With the orders for the defence of the settlements promulgated, the organizations of the military territorial defence system of Jewish settlers serving in the West Bank into organic military units stationed in their own areas under their own command has been completed.

Conclusion

Several conclusions can be drawn from the foregoing discussion of the ordinances, laws and orders.

The first is that the Israeli Government, in planning its settlement policy in the West Bank, is being guided by policies and legislation of the British Government Mandatary.

The second is that there is a clear violation of international law evidenced by the changes that have been made and continue to be made to Jordanian law to create the appropriate legal changes to fulfil the settlement policies.

The third is that an important consideration seems to be to create separate legal structures for Jewish settlements distinct from the existing Arab structures, the advantage of this being that it facilitates separate legislation and policies.

The fourth is that complex and elaborate structures have already been created and the legislation creating them gives them wide powers including the right to establish and run a court system, a limited power to legislate and a system of defence.

The fifth is that the system that has been established links the settlements with the military administration. The relationship to Israel is indirect. However, Israeli law in some instances is made to apply to the settlements and in other instances is used as a model on the basis of which military orders are made by the Commander-General such as is the case with the order on defence.

Finally, with the legal structure of the settlement network in the occupied territories having been completed, the foundations have been laid for the implementation of the policy which has been evident for several years. This policy is to facilitate and encourage in every way the development and growth of the settlements and discourage and retard the growth and development of the Arab municipalities and villages. The direction matters seem to be taking for the future of Jewish-Arab relations on the West Bank is a version of the South African apartheid or separate development policy. In that the reality and conditions differ, so does the extent of the similarity. However, enough parallels exist in the nature of the problem facing the South African Government and the Israeli Government and in the nature of the two systems and to some extent the practices of the two Governments to support a conclusion that strong similarities exist, which by all indications are bound to increase in time.

Notes

1/ Palestine Gazette (Arabic) supplement 1, No. 414, 12 January 1934.

2/ Palestine Gazette (English) supplement 2, No. 1154, 18 December 1941.

3/ Palestine Gazette supplement 1, No. 1352, 17 Augus 1944, p. 49.

4/ Ibid., art. 5.

5/ Jordanian Official Gazette, 1954, p. 433. This law has now been repealed and replaced by the 1955 law but the matters discussed here were not affected.

6/ The definition given by this order was amended twice by Orders 806 of 30 September 1979 and 848 of 15 June 1980. In each case, the definition was changed to increase its ambit.

7/ Municipalities Law, 1955, arts. 12 and 18.

8/ Ibid., art. 34 (3), as amended in 1960.

9/ Ibid., art. 27.

10/ Art. 3 (3) of the Municipalities Law and article 67 of the regulations.

11/ Art. 68 (3) of the regulations.

12/ Ibid., art. 68 (1).

13/ Ibid., art. 68 (2).

14/ Ibid., art. 68 (6).

15/ Ibid., arts. 68 (11) and (12).

16/ Ibid., art. 68 (13).

17/ Ibid., art. 68 (14).

18/ Ibid., art. 76.

19/ Ibid., art. 81 (b).

20/ Ibid., art. 87.

21/ Municipalities Law, art. 41 (c), as amended in 1956.

22/ *Ibid.*, art. 45.

23/ *Ibid.*, art. 47.

24/ *Ibid.*, art. 49.

25/ *Ibid.*, art. 56 (1).

26/ Regulations, art. 97 (c).

27/ *Ibid.*, art. 101.

28/ *Ibid.*, art. 126 (a).

29/ *Ibid.*, art. 127 (a).

30/ *Ibid.*, art. 127 (d).

31/ *Ibid.*, art. 131.

32/ *Ibid.*, art. 128 (a).

33/ *Ibid.*, art. 134.

34/ *Ibid.*, art. 137.

35/ Military Order No. 713, art. 1.

36/ *Ibid.*, art. 4 (a).

37/ *Ibid.*, art. 10.

38/ *Ibid.*, art. 8.

39/ *Ibid.*, art. 12 (a).

40/ *Ibid.*, art. 15 (b).

41/ *Sefer H-Chukkum*, No. 346, 13 June 1961, p. 169.

42/ Military Order No. 817, art. 2.

43/ *Ibid.*, art. 7.

44/ Military Order No. 898.

H. THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE

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Social, economic, cultural and political rights are the fundamental rights of man; it is not possible to speak of human freedom and dignity if they cannot be fully exercised. The interests in health, education, work, culture and self-determination are inherent to the very nature of man, therefore they are human rights, mankind's inalienable rights.

It is an indispensable requisite for the full exercise of man's inalienable rights that freedom to enjoy those rights should exist in a free society in the spirit enshrined in the Charter of the United Nations when it speaks of "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small".

When we speak of human dignity and the fundamental rights of man, our thoughts immediately go to the population in the Palestinian occupied territories, to the refugee camps in Beirut and in the south of Lebanon, and we remember the words of former Cuban President Osvaldo Dorticós Torrado at the Punta del Este Conference in Argentina in 1960, "catalogues exist of human rights, they are repeated, they serve for the more or less usual architecture of a speech in an international forum", and we wonder until when the crime against humanity will continue, systematically and with premeditation, perpetrated against the Palestinian people for their extermination by the terrorist regime of Israel, which day after day tramples upon the "existing catalogue of human rights" of the Palestinian people.

Paradoxically, the leaders of that regime which practises international state terrorism has the pretension to be, and actually proclaims itself, the representative of the Jewish people, who during the Second World War suffered the systematic persecution, murder, humiliation and annihilation of their best representatives, the workers, artisans, peasants and honest intellectuals, for the big Jewish money-brokers and magnates did not go to concentration camps and gas chambers.

At the time, the free peoples of the world, the progressive strata and the working class in every country raised their voices and closed ranks to fight fascism. That crime made mankind feel ashamed and show solidarity with the suffering of the Jewish people. Imperialism, in connivance with Zionist circles, took advantage of the favourable climate that prevailed in the international community in order to find a solution to the Jewish issue, and so the State of Israel was brought into existence.

The reactionary circles of imperialism and zionism, conspiring since the previous century, had plotted the creation of a State which would serve as a retaining wall for the liberation of the peoples in the Middle East.

> "If Palestine were to fall within the sphere of influence of Great Britain and if Great Britain were to promote a Jewish feeling there, as a British dependence, in 20 or 30 years we could have a million Jews and perhaps more. They would develop the country, bring civilization to it again and would form a very effective guard for the Suez Canal. If, on the other hand, we were there, we could, at least, control the Arab nationalist movement."

In its role of gendarme in the region to contain the Arab nationalist movement, Israel has applied a punitive policy of international terrorism, in repeated flagrant violation of the United Nations Charter and the Universal Declaration of Human Rights.

The inalienable rights that the Palestinian people are forcibly prevented from exercising by the Zionists not only are disregarded by the latter but this also constitutes an attack on the basic foundations of international relations, human coexistence and the principles of international public law. Article 6 of the Charter of the United Nations establishes that any Member may be expelled from the Organization if the principles agreed upon by the nations and contained in the Charter that governs the United Nations are persistently violated.

Israel fulfills all the requirements for the application of Article 6 of the Charter but this has not been possible despite the consensus of the majority of the international community owing to the veto used by the United States to protect what it has created, just as it does with zionism's twin brother, the racist South African regime.

Since 1948, Israel has repeatedly deprived the Palestinian people of its right to self-determination, an indispensable premise for the full exercise of the other human rights. A people who cannot freely determine its own destiny are legally prevented from fully enjoying the other rights. But not only legally; they are also morally, politically, philosophically and religiously deprived of their rights, as well as in the fields of economy, aesthetics and science; i.e., civilization itself is affected and the very essence of a people's culture is attacked, trodden underfoot and torn to pieces when that people is prevented from exercising self-determination.

In 1948, Israel carried out military operations against the Palestinian people, occupying territories that belonged to that nation by force and later through the "willing sale of those territories by the Palestinians". Thus began the colonial settlement policy and a "legal" body within the context of the illegal occupation was created by enactment of the following legal instruments, among others:

1. Act of property over the assets of absentees (it refers to the expropriation of lands and real estate of those evicted by force;

2. Act of acquisition of lands of public interest (in Israeli legal and political jargon: "Public interest" means any territory useful for the establishment of military bases, security, observation and posts for military control over the civilian population or for Jewish settlements), thus creating the legal order of the terrorist principle of plunder and pillage.

"Thou shalt not steal" is a tenet of the Hebrew religious doctrine formulated at a time when the prophets condemned the corruption, robbery and usury of the ruling class - the merchants - and which provoked the words of Amos: "You who turn law into absinthe and despise justice. Woe to them that lie upon beds of ivory and store up violence and robbery in their palaces". But the Zionist leadership of the current terrorist State of Israel is alien to the spirit that inspired those prophets and, going against the course of history, insists on creating the conditions for the annexation of the territories occupied in the Palestinian homeland.

On Independence Day this year, Prime Minister Menachem Begin reiterated his position that "there is no way of conceiving peace if our people is not absolutely free to establish settlements ... the establishment of settlements in the occupied territories responds to the spirit of zionism". Whom does Begin call "people"? To the militant settlers of the fanatic Gush Emunim sect who recently occupied central areas in the city of Hebron, destroyed 150 cars that belonged to the Arab inhabitants, who murder Palestinians, burn down their homes, rape their women, destroy their crops, burn down schools and beat up students, with the support of the "Green Berets" and other repressive corps.

According to studies made and testimonies received by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, since 1967, the military government of occupation has confiscated, "purchased" and expropriated more than 970 square kilometres, which amount to 16 per cent of the area of Jordan's West Bank.

The Special Committee has known of countless cases of dispossession of land, personal and real property carried out by the military government of occupation and Jewish settlers in the occupied territories of the northern sector of the Gaza Strip, the Tubas area, Deir Istiya, Al Khadr, Majdal Bani Fadil, Mount Eibal facing Nablus and Jaaba in the Jenin area, among other villages and towns, through punitive actions characterized by the use of force, economic coercion or psychological pressure.

The expropriation and acquisition of land and the authorization for Israeli citizens to obtain lands in the occupied Palestinian homeland constitute a violation of the Fourth Geneva Convention, which sets forth the obligation of the occupying Power to refrain from adopting any measure modifying the status of the occupied territories.

The annexation of territories by Israel was condemned by General Assembly resolution 33/113 of 18 December 1978. Israeli settlements in occupied territories have been declared without legal validity by Security Council resolution 452 (1979) of 20 July 1979. The annexation of occupied territories, the establishment of new Israeli settlements and the maltreatment of the civilian population constitute flagrant violations of the following articles, among others, of the 1949 Geneva Convention:

Article 33

"No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

"Pillage is prohibited.

"Reprisals against protected persons and their property are prohibited."

Article 47

"Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention ...".

Article 49

"... The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."

Article 53

"Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons... is prohibited ...".

The right of return to the homeland and the right to self-determination are consubstantial with the right to create an independent Palestinian State.

In their eagerness to annihilate the Palestinian people and to prevent refugees outside occupied territories from returning to their homeland, the terrorist regime of the State of Israel has engaged in the demolition of homes, schools and personal and real property, as well as the destruction of crops and water sources so as to create highly critical de facto conditions that will both discourage the psychological tendency to return and create the repressive machinery to prevent it physically, in addition to "legal" instruments within illegality, as we have said earlier.

The Palestinian people's right to return to its territories is contained in General Assembly resolution 3236 (XXIX) which affirms the "right of the Palestinians to return to their homes and property from which they have been displaced", and this right was reaffirmed by the General Assembly itself in resolution 34/52 when it proclaimed the inalienable right of all displaced inhabitants to return to their homes in territories occupied by Israel since 1967.

The United Nations Commission on Human Rights, in resolution 2 (XXXVII) speaks of "the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine".

As may be appreciated, the majority of the nations in the highest international body have spoken out in favour of recognition of the Palestinian people's full enjoyment of its inalienable right. The letter and the spirit of those instruments express the principles that govern relations among peoples and international cooperation, enunciated in resolution 1815 (XXV) of the United Nations General Assembly, i.e.:

1. Abstention from threat or the use of force;
2. The resolution of disputes through peaceful means;
3. The obligation of non-intervention;
4. The obligation of States to cooperate with each other;
5. The principle of the equality of rights and self-determination of peoples;
6. The principle of the sovereign equality of States;
7. Fulfilment in good faith of obligations.

All these principles have been violated by the Zionist regime and have prevented the Palestinians by force from the free exercise thereof.

We do not, of course, expect the terrorist Israeli regime to comply with principles whose implementation would eliminate the threat of war and create favourable conditions for a lasting peace. The Zionist regime is part of the imperialist system, practices colonialism and, by its very nature, bases its principles on the philosophy of dispossession and war. Let the terrorist conduct based on that philosophic conception cease, and there will be peace in the Middle East.

Article 2 of General Assembly resolution 1514 (XV) of 15 December 1960 states that all peoples have a right of self-determination and that by virtue of this right they freely decide their political status and pursue their economic, social and cultural development.

At the thirty-sixth session of the Commission on Human Rights, held from 14 February to 14 March 1980, some speakers said that the enjoyment of economic, social and cultural rights was one of the essential elements of the efforts to ensure the exercise of all human rights.

One cannot speak of human rights in the Palestinian territories occupied by Israel, where the policy of establishing settlements breaks up traditional communities and has as its aim control over agricultural lands, water resources and electric power, to the detriment of living and labour conditions and obliging farmers who have lost their lands to work irregularly in Israel. A third of the water intended for irrigation purposes has been diverted to Israeli settlements.

Every year, an average of 20,000 people, for the most part individuals with technical and professional qualifications, have been forced to migrate to neighbouring Arab countries or elsewhere because they have been unable to find work in Israel or local areas. The lowest rungs of the labour ladder are for the Palestinians, a fact which constitutes a discriminatory policy.

The presence - by force - of a foreign population, whose religion and culture are different, provokes constant tension between Jewish settlers and the Palestinian population, extending even to gross provocations such as the entry of Jewish rabbis into Moslem mosques with their shoes on.

Continuous expropriation and confiscation, the demolition of homes, the destruction of Arab farms through defoliation and the destruction of trees with bulldozers have forced their Arab owners to abandon their lands and leave them to be confiscated and alienated by Jewish settlers, provoking a universal sense of insecurity.

It is undeniable that the "occupation of the land by force seriously affects the physical, mental and social welfare of the population in the occupied territories, which can only be remedied by putting an end to such occupation". The "expulsion and deportation of medical and paramedical personnel from the occupied territories, leading to the deterioration of the sanitary situation and health services in those territories", is part of the terrorist policy of the State of Israel and violates the principles proclaimed by the World Health Organization in the sense that "health is a state of complete physical, mental and social well-being and not just the absence of illness and disease".

It is this conduct of the Zionist Israeli State that qualifies it as an active practitioner of international state terrorism. The implementation of extreme measures of repression and violence as a means of class domination and their inclusion in a programme with well-defined objectives, i.e., the control of the population in question through fear induced by acts of destruction, so as to inhibit their political actions, is based on a principle of behaviourist psychology which states that large doses of fear produce inhibition both at the individual and at the collective level within a group.

The testimony of rebelling Israeli soldiers and officers to Israeli deputy Uri Avnery of the Sheli Party reveals how they had received orders from their senior officer on entering a Palestinian village in Transjordan to "beat up anyone found outside the house, hit them anywhere except on the head. Do not be afraid, break their bones. Hit first, explain afterwards. If you catch a child, make the family come out, heat up the father in front of the children. It is an order. They do not understand any other language. At the slightest incident (commotion, stone-throwing, producing a Palestinian flag), attack and hit them mercilessly, not covertly but in front of everybody so fear will hold sway."

During the first months of 1980, in the fields of Jalazoum near Ramallah and Dehezcheh, south of Bethlehem, for many days curfew was instituted, systematic searches were held and all the men from 15 to 60 years of age were assembled and were left for nights on end in the rain and the cold, submitting them to all sorts of humiliations.

Through terror, cruelty, systematic crime, confiscation, displacement, insufficient medical aid, psychological coercion, physical aggression (torture), irregularities in the labour structure, the closing up of schools and universities, the expulsion and deportation of professors, censorship of Palestinian textbooks, the imposition of high taxes on textbooks in the Arab language from neighbouring countries, as well as by obstructing the development of the Palestinian people's own culture, Israel has totally disregarded the provisions of resolution 1514 (XV), article 2, of 15 December 1960, which states that all peoples have a right to self-determination and that by virtue of this right they freely decide their political status and pursue their economic, social and cultural development.

Recent information indicates that the Zionist regime is determined to annihilate the Palestinian people by closing every path to a just peace.

Menachem Begin, the Israeli Prime Minister, on forming his Government recently, has strengthened the positions of the most reactionary elements in his team, as in the case of Ariel Sharon, appointed Minister of Defence who, as Minister of Agriculture directed the settlements policy in the occupied territories and carried out the most brutal repression against the Palestinian refugees so that even the North American news agencies have called this Government "the most conservative in the history of the State of Israel". Thus, Begin's new cabinet is the symbol of repression and expansion and it includes the main proponents of racism, fascism and terrorism.

In his speech before the Knesset (Parliament) on 5 August, Begin stated that the attacks on Lebanon were aimed against the Palestinians and not against the civilian population - trying to establish a new concept of defence within the terrorist logic and principles of zionism, with no regard for the women, children and old people and the Palestinian population in general, as human beings.

In the coalition agreement for the formation of a new government, the Zionist regime clearly defined its concept of autonomy, agreed upon in Camp David, which "is not a state, is not sovereignty, is not self-determination". The coalition agreement plans the strengthening of the Jewish settlements and calls the occupied territories "sectors of our homeland" in a clear declaration of final annexation to which it aspires.

Begin, following zionism's historical line, endorsed the role assigned to Israel by imperialist strategy when he declared that "the free world does not depend on nuclear weapons that cannot be used but on conventional military forces. Israel, with its well-trained army, is ready to help the United States defend Western interests in the Middle East".

Logic and reasoning indicate that it is not possible to speak of peace, or respect for and recognition of the inalienable rights of a people with the representatives of a terrorist State whose bellicose, aggressive and criminal language and conduct are hardly consonant with the Charter of the United Nations and the most elementary principles of international law.

The exercise of the right to self-determination, the return to the homeland, the establishment of an independent State and the restoration of all human rights in turn imply the right to repel the aggression that is being carried out against the Palestinian people in the territories occupied by Israel and in the refugee camps in Lebanon with the declared object of physically exterminating this heroic people and its legitimate representative, the Palestine Liberation Organization (PLO).

The rebellious spirit of the Palestinian people is invincible for it is waging its struggle for national liberation for the retrieval of its national identity and its inalienable rights that have been violated. Palestinian resistance is formed by artisans, workers, peasants, teachers, women and intellectuals, both in the occupied territories and in the refugee camps outside the homeland. This people's guarantee of victory is the PLO, a tough organization forced in an unequal struggle on the material plane, but superior to its enemies on the plane of principles. They will triumph by reason of history.

Oppression will not last forever. Terror and fear will not reign eternally. The awakening of the peoples has become more frightening than anything thought up by their oppressors to subject them to. One has to be blind not to see it. The greater the internal tyranny is, the greater the imperialist oppression, the greater the rebellion will be, and this rebellion will be invincible. Fidel Castro, in his report to the Second Congress of the Communist Party of Cuba.

As Yasser Arafat stated before the Palestinian Council held this year, "the Palestinian revolution is a liberation movement whose nature is not local but which symbolizes and represents a strategic transformation. It is a revolution with a Palestinian face, an Arab heart and internationalist roots which also has broad contacts and co-operation with the progressive non-Zionist Israeli parties and forces". This allows the Palestinian leader to state that "the Palestinian revolution came to triumph and will win".

Since 1948, Israel's disregard for the principles and mandates of the international community with regard to the inalienable rights of the Palestinian people has been evident.

Nevertheless, the Palestinian people have maintained a position consistent with its objectives of freedom and national independence and, without abandoning its struggle for national liberation, it had, through all the means at its disposal, reaffirmed its adhesion to the spirit of the fundamental principles of contemporary international law on the resolution of disputes by peaceful means. On 20 July 1981, Yasser Arafat, the head of the PLO and leader of the Palestinian resistance, declared: "The Palestinians pursue a just peace, based on the establishment of a Palestinian State and their right to return to their homeland".

Now more than ever, when the war-mongering forces are trying to plunge mankind into the holocaust, the international community must give its active support to the PLO, the Commission on Human Rights and the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, in order to save the Palestinian people suffering and shorten its road to freedom so that it may enjoy the exercise of its inalienable rights.

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1. SOME CONSIDERATIONS ON THE ESTABLISHMENT OF A PALESTINIAN STATE

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In the current century, mankind has seen various conflicts which have caused indescribable suffering: two world wars, which brought civilization to the brink of destruction, numerous conflicts of limited scope and innumerable internal problems of international significance and impact.

The great majority of such conflicts have, however, been resolved more or less definitively. Examples illustrating this statement are the defeat of nazism and fascism, the fall of the great colonial empires and the heroic triumphant epic of the Vietnamese people.

There is, however, one problem which, in spite of its gravity, importance and drama, still remains unresolved, although it has existed for at least 65 years: the so-called Middle East conflict, in which various political, strategic, economic and religious elements are superimposed but whose basic core is determined by the drama of the Palestinian people who are denied the right to self-determination, the right to exist as a nation and the right to build a State like all the other peoples of the world.

The purpose of this paper is to try to demonstrate that the Palestinian people exists as a nation, possesses a territory, has a basic organization and enjoys international support and recognition. That is to say Palestine has all the basic qualifications required by international law for the establishment of a State, a perfectly valid form for the higher organization of a community which the Palestinian people may adopt in the course of the process of its self-determination, should they deem it necessary and appropriate.

Although this paper deals with legal and juridical considerations, I feel it necessary to point out from the start that the problem has, in my understanding, an eminently political character. By this I mean that the possible resolution of the Middle East conflict and therefore of its central element, the Palestinian problem, lies in the sphere of political science, with all the elements of realism and reciprocal concessions that must be made if an agreement is to be reached between all the parties involved in the current context of the correlation of forces in the international sphere, particularly since the solution cannot come about through the use of force or through the application of legal principles in an international order with imperfect ethical institutions and without the necessary force to ensure execution of its judgements.

The origins of the Palestinian people, descendants of the Canaanites and Philistines, go back more than 5,000 years. In the year 3500 B.C., there were already certain traces of the existence of Palestine as a community and as a people, when the Semites emigrated from the Arabian peninsula to settle in the more fertile and temperate lands bordering the Mediterranean.

In the course of its long history, the Palestinian people had been the object of many foreign invasions and various forms of occupation: Syrians, Babylonians, Persians, Greeks, Romans, Muslims, Christian Crusaders and Turks came successively to dominate Palestine and leave their contribution for the enrichment of the culture of the Palestinian people who are characterized by their cosmopolitanism. There was also a brief historical period during which the Hebrews also passed through Palestine under the leadership of Moses and the later establishment in a part of Palestine of a Hebrew community ruled by King Solomon. The geographical location of Palestine, its territory strategically located like a natural bridge between Africa, Asia and Europe, made it a natural scene of great incursions and invasions, which with time contributed to the formation of a cosmopolitan nation with respect to race and religion, which was also prepared to receive persecuted communities such as Armenians and Kurds. This traditional spirit of tolerance, broadmindedness and ecumenism prevailed in Palestine up to the beginning of the century when, forming part of the Ottoman Empire and governed by the Constitution of Constantinople of 1876, Palestinians, Muslims, Jews and Christians lived in perfect harmony in its territory.

No stage of domination of Palestine has had such serious effects and projections as that which began in 1917 with the Balfour Declaration and which has lasted to this day. As early as 1896, Theodore Herzl, one of the most important ideologues of zionism, published the book Der Juderstaat (The Jewish State), in which he proposed the establishment of Zionist colonies in the province of Entre Ríos in Argentina or in Palestine to create the embryo of what was to be a future Jewish State; but this proposal encouraged a plan of Zionist emigration to both countries. Later, the main force was concentrated in Palestine because its state of domination by the Turkish Empire offered better political possibilities for the project than Argentina, where an independent Government existed.

Until 1917 then, there clearly existed a Palestinian entity with a specific people who for centuries inhabited a specific territory, i.e., who possessed the two basic attributes of a nation. That entity formed part of the Ottoman

Empire which was destroyed at the end of the First World War, when its territory was entrusted as a Mandate to the League of Nations. Article 22 of the Covenant of the League of Nations state that:

> "Certain communities formerly belonging to the Turkish Empire have reached such a stage of development where their existence as independent nations can be provisionally recognized, subject to the rendering of administrative advice and assistance by a Mandatary until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatary."

In 1922, the League of Nations, without consulting the wishes of the Palestinian people, entrusted Great Britain with its Mandate over Palestine, but including the commitment to fulfil the objective of the Declaration of the British Foreign Secretary, Sir Arthur James Balfour, which is the "establishment in Palestine of a national home for the Jewish people". In a memorandum to his Government in August 1919, the same Balfour said: "In Palestine we do not propose even to go through the form of consulting the wishes of the present inhabitants of the country [the Palestinians]". He recognized in the same document that "the four great Powers are committed to Zionism", and stated that "Zionism, be it right or wrong, good or bad, is rooted in age-long traditions, in present needs, in future hopes, of far profounder import than the desires and prejudices of the 700,000 Arabs who now inhabit that ancient land". From a reading of these expressions, it is clear that the geopolitical project that was beginning with the legal blessing of the League of Nations for the introduction of a new element of powerful foreign occupation into Palestine.

The British Mandate over Palestine lasted 25 years until 1947 when Britain handed over the problem, without resolving it, to the United Nations. During this period, an unprecedented Jewish emigration took place which was intensified towards the end of the 1930s and at the beginning of the 1940s owing to the considerable Nazi persecution of Jews in Europe. During the quarter century of the British Mandate, the population of Jewish origin, which in 1880 had totalled 20,000 and in 1917 rose to 60,000, meaning a 9 per cent increase in the total population of Palestine, and constituted 32 per cent in 1947. In 1917, Jewish-owned land was 2.5 per cent of the total land area in Palestine while in 1947 it was 6.2 per cent. During this period, there were also various uprisings and popular rebellions by the Palestinian people, harshly repressed, in 1920, 1921, 1929, 1933, 1936, 1937 and 1939, against the British occupation and the Zionist invasion, which proves the continuity of the Palestinian people and its unequivocable desire for freedom and independence.

On 29 November 1947, the United Nations General Assembly, by resolution 181 (II), decided on the division or partition of Palestine through the establishment of a Jewish State, to which 50 per cent of the territory of Palestine was assigned, although the Jews represented only 32 per cent of the population; the Palestinian Arab State, whose establishment was never realized; and a territory including the Holy Places of Jerusalem, Bethlehem and the adjacent area, under the direct administration of the United Nations.

On 14 May 1948, the State of Israel was created and immediately there began the war between the Zionist State, which was swiftly recognized by the great Powers, and the neighbouring Arab States. As a result of the war, the new State illegally acquired new territories through the use of force, in violation of legal principles which had, at least since the Briand-Kellog Pact of 1939, become binding norms of international law forming part of ius cogens, principles of which were later incorporated as substantive norms of binding character in the Charter of the United Nations, when the legally organized international community was established, and according to which conquests of territories obtained through the use of force are null and void, which means that territories thus illegally acquired must be returned. In the 1948 war, Israel acquired up to 77 per cent of the territory of Palestine and occupied the greater part of Jerusalem, a city which, in accordance with the partition resolution, was to be internationalized. As a result of the same war, Jordan and Egypt occupied the rest of the territory of Palestine where, under the United Nations resolution, there was to be established the Arab State of Palestine, which was never constituted and the legal basis for the future establishment of which is here clearly defined. The establishment of a Palestinian State would then be determined by the same legal basis that provides a birth certificate to the State of Israel.

Since this time, the great and painful drama of the Palestinian people has been becoming more acute. Especially since after the 1948 war, more than one half of the native Palestinians were obliged to flee or were expelled. In 1949, there were already 726,000 Palestinian refugees. Thus, at the time of the 1967 war, in which Israel again acquired territory through the illegal use of force, this time taking possession of all the Palestinian territory which had been under the control of Jordan and Egypt and the whole city of Jerusalem, the Palestinian exodus increased by 500,000 additional refugees.

The Palestinian Arabs were not only obliged to leave their country but their property was looted and their lands confiscated. More than 1 million human beings, children, old people and women, were driven to exile by violence and this was one of the most dramatic instances of large-scale violation of human rights and fundamental freedoms. During this period from 1948 to 1968, the Palestinian problem was dealt with as one of refugees and violation of human rights only. It was, starting in 1969, through the adoption of the historic General Assembly resolution 2535 B (XXIV), followed by other resolutions such as 2672 C (XXV) of 1970 and 3236 (XXIX) of 1974, that the problem of Palestine has been dealt with in its just and necessary dimension, namely, that of an eminently political conflict whose root lies in the right of the Palestinian people to self-determination and whose solution depends on the overall settlement of the problem of the Middle East, which has already been the scene of four wars and which today constitutes one of the most serious threats to international peace and security.

It will be argued rightly that the resolutions of the United Nations General Assembly are not mandatory and are mere recommendations. Without embarking in this paper on a detailed study of this complex legal aspect, we would merely point out the importance of the resolutions of the General Assembly as sources of law and recall that it was by virtue of a resolution of the General Assembly, adopted in a specific historical context, that the partition of Palestine took place, a resolution which has the same legal force as those adopted in recent times, when the correlation of forces in the General Assembly has changed as a result of the process of decolonization and in recognition of the right to self-determination of the Palestinian people. Moreover, it is clear that the resolution of the Palestinian problem will not come about through respectable resolutions adopted by more or less broad majorities of the General Assembly and that a real process of political negotiation will have to emerge before the despair of a people unjustly left aside provokes a new conflagration which, because of the factors involved at the present international juncture, will have a broader field of action than the previous wars in the region.

In recent years, there has been a qualitative and quantitative improvement in the struggle and presence of the Palestinian people. Its vital survival activity is being organized through an internal political hierarchy, the Palestine Liberation Organization (PLO); its action is inscribed in the framework of the liberation struggles of the third world; its own identity is clearly nourished by its historic traditions and enriched by the emergence of an ideological thought which combines the Palestinian national spirit with a popular Arab nationalism.

Some conclusions may be drawn from the brief historical summary:

(a) The Palestinian people, as an ethnic and cultural entity, cohesive and having a long historical perspective, has existed for thousands of years. Its presence is even more real and vivid at the present time in as much as the domination, harassment and persecution to which it had been subjected have served as an agglutinating factor to define more clearly its presence and objectives as a nation;

(b) That Palestinian nation has occupied constantly and for thousands of years the territory of Palestine, which has remained distinct and well-defined, despite the many invasions and occupations to which it has been subjected, almost in spite of the partition plan adopted by the United Nations;

(c) The traditional organization of the Palestinian people, which has remained in force throughout the course of its history, has been perfected with the unitarian action which resulted, in the process of the struggle, in the establishment of a true government in exile, the PLO, which has passed from clandestine action to the work of action and representation.

J. HUMAN RIGHTS AND PALESTINE: RECENT DEVELOPMENTS

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A discussion of human rights in Palestine differs markedly from a discussion of human rights in most other locations. With respect to Palestine and its people, human rights deprivations form part of a broader deprivation of existence as a nation. Individual deprivation cannot, therefore, be viewed accurately unless considered in the context of the larger deprivation of national existence.

In this respect the people of Palestine are in a situation similar to that of other peoples whose national existence has been threatened - the Irish of Northern Ireland, the native peoples of North America, the people of East Timor. For such groups, each individual violation of human rights carries a significance far beyond a similar act inflicted elsewhere in the world.

In the typical instance of human rights deprivation, a Government that feels weak resorts to cruel methods to suppress opposition. With the people of Palestine, deprivation of their rights similarly reflects the inability of the Government (Israel) to keep the population quiet. But beyond that, it reflects an effort to prevent the population from voicing its aspirations for a national existence that has been taken away from them. Those carrying out the human rights deprivations represent a dominating force imposing its rule on the population.

This phenomenon is seen most clearly with respect to those areas of Palestine taken by Israel in 1967: the West Bank and the Gaza Strip. There, rule is by the military. No pretence is made of the existence of any political order giving the population the right to govern itself. While certain small steps have been taken towards self-government at the level of the municipalities, political power rests with a General who is responsible to the Israeli Minister of Defence. Agents of that General are in turn responsible for the various functions of governmental administration.

A similar system of military rule formerly existed in those parts of Palestine acquired by Zionist forces in 1948. From then until 1966, predominantly Palestinian sectors were run under martial law.

A persistent feature since 1948 of the Zionist administration in Palestine has been an effort to eradicate manifestations of Palestinian national existence. Palestinians have been regarded by the Government of Israel as intruders into a Jewish State. This view has coloured treatment of the Palestinians by Zionist authorities. It has led to second-class status in economic terms, as well as to a complex system of legal rules that accord privileges to Jewish citizens and deny them to Palestinian citizens. Most prominent in this regard is the land tenure system of Israel, which reserves 93 per cent of the land of acquisition by Jews only, thereby denying it to Palestinians.

Israel was founded in Palestine in 1948 by European Jews (Zionists) as a Jewish State. The primary obstacle to the establishment of a Jewish State in Palestine had been the fact that the country was inhabited by Palestinian Arabs who had lived there for centuries and who, in the early twentieth century, constituted 90 per cent of the population. Immediately following the Second World War, Jews numbered 600,000 in Palestine, while Palestinians numbered 1.3 million.

In order to establish a Jewish State, it was necessary either to rid Palestine of its Palestinians or to institute a political order that would deny them a voice. The King-Crane Commission, appointed by United States President Woodrow Wilson to report to him on Palestine, noted:

> "The fact came out repeatedly in the Commission's conference with Jewish representatives, that the Zionists look forward to a practically complete dispossession of the present non-Jewish inhabitants of Palestine, by various forms of purchase."[1]

During 1948, Zionist military forces drove out thousands of Palestinians in groups[2] and frightened away thousands more by massacring 250 Palestinian civilians in a village (Deir Yassin) near Jerusalem.[3] Many thousands more left their villages to avoid the warfare then in progress. After Israel's borders became fixed, Israel refused, with minor exceptions, to allow these Palestinians to return.

The Zionist goal of dispossessing the Palestinians was acknowledged by J. Weitz, former head of the Jewish Agency's colonization department, with organized Zionist settlements in Palestine. In 1967 Weitz said that he had noted in his diary in 1940:

> "Between ourselves [Zionists] it must be clear that there is no room for both peoples in this country ... We shall not achieve our goal of being an independent people with the Arabs in this small country. The only solution is a Palestine, at least Western Palestine [west of the Jordan River], without Arabs ... And there is no other way than to transfer Arabs from here to the neighbouring countries, to transfer all of them: not one village, not one tribe, should be left ... Only after this transfer will the country be able to absorb the millions of our own brethren. There is no other way out."[4/]

By late 1948, about 750,000 Palestinians had been displaced from the area of Palestine that became the State of Israel; 385 vacant Palestinian villages were levelled by the Israeli Government.[5/] Of 370 Jewish villages built from 1948 to 1953, 350 were on land formerly held by Palestinians.[6/] Some Palestinians remained. They now constitute 16 per cent of the population of Israel.

The human rights deprivations visited upon the Palestinians by the Israeli Government cannot be fully appreciated unless understood in one other aspect, that is, that the Palestinians are a third-world people, while the Zionists who rule Israel are European. The Zionists have been able to employ highly developed technology in their efforts to displace and subjugate the Palestinians. That has facilitated economic domination over the Palestinians. a domination that has significantly increased the seriousness of the more traditional forms of human rights deprivations. A major reason, to give one example, for the lack of a strong labour movement in the West Bank and Gaza is that many Palestinians are compelled by economic circumstances to work outside those areas, in Israel. They are thus migrant workers, at a disadvantage in the Israeli labour market. They take the worst jobs and are the first to be fired in times of labour surplus. If they voice opposition, either to conditions of labour or to the political situation, they are in jeopardy of losing their livelihood.

Despite the fact that Israel now comprises more Jews of Middle Eastern than of European origin, the governmental and economic establishment of Israel continues to be dominated by Europeans.[7/] This fact inserts a strong racial element into the human rights situation. A 1980 survey of Israeli Jewish high school students found that 64 per cent believed that Palestinians in Israel did not deserve equal rights.[8/]

The deprivation of human right suffered by the Palestinians both in the West Bank and Gaza Strip and in the area occupied in 1948 have been amply documented by international agencies and private human rights organizations.[9/] Most international attention has centred on the West Bank and Gaza since those areas fall under the internationally defined status of military occupation. Recently, however, a series of acts taken by the Government of Israel has brought attention to these Palestinians.[10/] A number of statutes were adopted in 1980 to suppress nationalist efforts by the Palestinians within Israel. Similarly, measures have been taken infringing on the land rights of bedouin Palestinians in the Negev Desert, in particular in connection with construction of a large air base to replace one Israel is losing as a result of its withdrawal from the Sinai Peninsula.

The year 1980 witnessed both an increase in repression of Palestinians and a growing cohesion of efforts to oppose Israel's measures to suppress the voicing of Palestinian national sentiments. In Israel, three laws were adopted in July 1980 to stem Palestinian nationalism. The first, entitled "Order for Prevention of Terror", forbids public manifestations of support for organizations defined by the Israeli Government as "terrorist". This measure is apparently intended to prohibit the flying of flags or the displaying of slogans of the various Palestinian resistance organizations. A second July 1980 law gives the Ministry of the Interior power to revoke the citizenship "of any person who has committed an act that constitutes abrogation of loyalty to the State of Israel". Loyalty is not defined in the statute. Prior to its enactment, only the courts had had jurisdiction to deprive a person of nationality. A third July 1980 law requires registration of associations and refuses it to any group "which denies the existence of the State of Israel or its democratic character, or if there are reasonable grounds to conclude that the association will serve as a cover for illegal actions or objectives".

These three laws are in violation of the internationally protected human rights of assembly and speech. They are justified by Israel on grounds of State security. However, that justification is weak since the laws prohibit acts that fall short of any palpable infringement of security interests.

Another human rights violation occurred in 1980 with respect to Israeli Jews who refused military service in the West Bank. A movement has recently developed among Israeli youth to refuse such service. Most Israeli draftees serve at least part of their service period in the West Bank: bases in the West Bank are used for military training, and soldiers frequently patrol West Bank towns and roads. In July 1979, 27 Israeli high school students sent a letter to the Minister of Defence stating that they would agree to be drafted as required by Israeli law but that they would refuse to serve in the West Bank. They stated as a reason that they did not wish to be part of an occupying army. A number of these young people have subsequently refused service in the West Bank, and some of them have been court-martialled and sentenced to military prison. The imprisonment of these young people has been criticized by, among others, Amnesty International.[11/] They are refusing to participate in actions that violate international law - the occupation itself, and acts regularly committed by Israeli troops in violation of the Fourth Geneva Convention. This being the case, the young people are justified in their refusal.

In the West Bank and Gaza, 1980 and 1981 witnessed increased violations of human rights with respect to settlements. Settlement construction markedly increased, in flagrant violation of article 49 of the Fourth Geneva Convention. This increase in construction was undertaken in late 1980, in anticipation of the Begin Government's defeat in the 1981 elections. In 1981, the United States Government, under a new administration, declared that construction and maintenance of the settlements do not violate article 49. Previously, the United States Government had condemned the settlements as violative of article 49. This change in position removed what little restraint the previous United States position had exerted on construction of settlements.

Another serious increase in human rights violations occurred in 1980-1981 with respect to West Bank universities. These universities have become instruments for the perpetuation of Palestinian history and culture, as well as places where Palestinian national sentiment is reinforced. In July 1980, an order issued by the West Bank Military Governor, General Benyamin Eliezer, extended to West Bank universities a 1964 Jordanian statute on government regulation of secondary schools. This statute gives the Government extensive control over educational institutions at the secondary level, in particular with regard to the hiring and firing of faculty, the admission of students and the establishment of the curriculum. The Government of Israel, while admitting that the 1964 Jordanian statute was not drafted for the regulation of universities, justified its use by stating that Jordan had no statute for regulation of universities.[12/] Israel is required by international law to utilize Jordanian legislation since the West Bank was governed by Jordan prior to Israel's occupation of it. Thus, according to the Israelis, the most lawful approach was to utilize the Jordanian statute on secondary schools. The Government of Israel further argued that according to the law of military occupation, it had the right to prevent teaching that would incite students to oppose the occupation.[13/]

However, the manner in which this 1980 decree (Military Order No. 854) has been enforced goes well beyond any legitimate security interest of the Government of Israel. In the spring of 1980, the West Bank Military Governor denied an operating permit to the Abu Dis College of Science (West Bank), thereby forcing its closure. Explaining the closure to Israel's High Court of Justice, Israel's Deputy Attorney-General stated: "Where there are schools, there will be demonstrations, stone-throwing, raising of flags and therefore a threat to security".[14/] In November 1980, General Eliezer ordered the closing of a series of cultural events at Bir Zeit University. Without explanation he has withdrawn visas from a number of non-resident faculty members at the same University. Soldiers patrol university campuses in the West Bank on a daily basis, and there are frequent clashes with students.

The West Bank Military Governor has delayed or denied permission for establishment of a number of academic programmes involving no security concerns. At Bethlehem University in 1980, for example, he denied permission to establish a programme in the university's hotel management department whereby students would guide tourists around the Holy Places in Bethlehem. No explanation was given for the denial.[15/]

Restriction on any speech or other expressive activity directed against the occupation has become extremely severe. In April 1980, several Bethlehem University students were convicted in an Israeli military court for wearing T-shirts bearing the emblem of the Bethlehem University Student Council. The emblem contained streaks of green, black, and red on a white T-shirt (the four colours of the Palestinian flag). The students were convicted under an Israeli military order on the prohibition of incitement and adverse propaganda.[16/] That order, which calls for a jail term of up to 10 years, punishes:

> "... any person who tries whether verbally or in any other manner to influence the public opinion in the area [West Bank] in a manner which might endanger public security or order or carries out any action with the intention of carrying out or of facilitating the carrying out of any action mentioned above".

Order No. 101 prohibits the raising of a flag without permission of the Military Governor and requires a permit for:

> "... a march of 10 or more people together; or the assembling for the purpose of marching together from one place to another for a political purpose; or for a matter which can be interpreted as a political matter whether or not they were in fact walking and whether or not they had congregated."

In spring 1980, 80 students of the Abu Dis College gathered for a silent sit-in to protest the closing of the college by the Military Governor. They were arrested and convicted of illegal assembly.[17/]

Use of the world Palestine is often prohibited. In a 1980 court case, two journalists sought the right to register with the Israel Register of Companies a business called Palestine Press Service. Their application had been denied by the register on the ground that the term Palestine is "offensive to the Israeli public". An Israeli district court judge upheld the rejection because of the "offensive nature of the proposed title".[18/]

Books considered anti-occupation or anti-Israel are regularly banned by the Military Governor. The United States annual report on human rights published in February 1981 noted that, during 1980, an increasing number of books was banned by the Israeli Government.[19]

Newspapers are frequently closed down and are regularly censored. During 1980, editors of two prominent West Bank newspapers were placed under town arrest at their places of residence. This prevented them from going to the offices of their newspapers in Jerusalem.[20]

The Fourth Geneva Convention does not guarantee freedom of speech during military occupation. However, the Universal Declaration of Human Rights, which by its terms is applicable regardless of the status of a territory (art. 2), does provide such protection (art. 19), as do other international human rights documents.

A related human rights deprivation that has assumed increasing significance during 1980-1981 is denial of self-governance. The Fourth Geneva Convention requires an occupier to permit the local government to function as normally as possible, consistent with the occupier's security interest. In the West Bank and Gaza, Palestinian governmental institutions have been reduced to insignificance because of the broad authority assumed by the Israeli Military Governor. Local municipal councils exist, but their powers are insubstantial. No Palestinian governmental authority is permitted for the West Bank or Gaza as entities. At that level, the Military Governor has appointed assistants who are responsible for various aspects for governmental administration.

In 1980, even this limited form of local self-government was challenged by the Government of Israel. Quadrennial elections scheduled for spring 1980 in the West Bank were cancelled by the Military Governor, General Eliezer. Explaining the reason for the cancellation, General Eliezer stated: "If we let them run for elections, the result would be very clear - once and for all to bury the Camp David peace process".[21] The cancellation was thus motivated by a fear that the elections would bring to office persons with views inimical to the interest of the Government of Israel.

It is ironic that, at a time when the Government of Israel is supposedly negotiating with Egypt to accord self-governance to West Bank and Gaza Palestinians, increased measures have been taken to thwart local self-government, to suppress opposition to the occupation, and to increase the Zionist takeover of the West Bank through settlement.

It is critical at such a time that international pressure be more effectively mobilized to protect the human and national rights of the Palestinian people.

An issue which has helped to raise international consciousness is that of the legal status of Palestinian fighters captured by the Israeli army. A claim to status of prisoner-of-war has been made by Palestinians prosecuted for acts connected with military operations in which they were engaged.

In many such instances, these Palestinians fighters satisfy the requirements established by international humanitarian law to be considered "combatants". A captured "combatant", according to international humanitarian law, is not to be prosecuted for participation in military operations.

However, Israeli military courts have heretofore uniformly rejected these claims to prisoner-of-war status and have proceeded to conduct a trial and to impose punishment. In appropriate circumstances, Israeli courts should grant such claims. Combatants are not to be treated as criminals.

These claims of prisoner-of-war status demonstrate to world opinion the fact that the Palestinians are engaged in a war of liberation.

Another court proceeding that has served to raise public awareness of the nature of the Palestinian struggle is that involving Ziad Abu Ein in the United States.

A young Palestinian, Abu Ein, is charged by the Israeli Government with settling a bomb in Tiberias, resulting in several deaths. At the time he was charged (1979), Abu Ein was in the United States. The Israeli Government requested his extradition. The United States authorities arrested him. He has been held in jail since that time.

In the court proceeding in Chicago to determine whether Abu Ein is subject to extradition, he argued that he had not done the act with which he has been charged but that in any event such an act must be considered political. Under international law, a person who commits a crime for political reasons is generally not subject to extradition.

Abu Ein has also argued that he is not subject to extradition because, as a Palestinian facing a political charge, he is not likely to receive a fair trial in an Israeli court. His attorneys have shown that in such cases Palestinians have frequently been coerced into confessing and have been convicted on little evidence.

Thus, the case of Abu Ein has illustrated to the public in the United States both the nature of the Palestinian struggle and the quality of Israeli justice.

It is important that the kind of information generated by such court cases be brought to public attention. Dissemination of such information not only pressures Israel to curb its violations of the rights of Palestinians but also creates a climate of world opinion more conducive to an overall resolution that will satisfy the Palestinian's rightful demand for self-determination.

Notes

1/ George Antonius, The Arab Awakening, 1946, pp. 448-49.

2/ Memoirs of former Israeli Prime Minister Yitzhak Rabin, reported in The New York Times, 23 October 1979, and in Newsweek, 5 November 1979, p. 68.

3/ Erskine Childers, "The Other Exodus", in The Israeli-Arab Leader, ed. Walter Laqueur (1969), p. 145.

4/ Davar, 29 September 1967.

5/ Israeli League for Human and Civil Rights, The Shahak Papers, ed. Adnon Amad (1973).

6/ Don Peretz, Israel and the Palestine Arabs (1958).

7/ Uri Davis, Israel: Utopia Incorporated, 1977.

8/ Ha'aretz, 2 December 1980; Al-Fajr, 18 January 1981, p. 15.

9/ Numerous reports have been issued by various United Nations bodies; Amnesty International (London) has published a number of analyses; the National Lawyers Guild (United States) has published Treatment of Palestinians in Israeli-Occupied West Bank and Gaza: Report of the National Lawyers Guild 1977 Middle East Delegation, 1978; the International Commission of Jurists has published The West Bank and the Rule of Law, 1980.

10/ A major work detailing the violation of Palestinian rights in Israel is Ian Lustick, Arabs in the Jewish State, 1980.

11/ Amnesty International 1980 Report, p. 338.

12/ "Universities in the areas administered by Israel", mimeographed document distributed by Israeli consular offices in the United States, 1981.

13/ Ibid.

14/ Case No. 322/8, 14 July 1980, cited in International Commission of Jurists, The West Bank and the Rule of Law, 1980, p. 89.

15/ Interview by author with Father Joseph B. Loewenstein, President of Bethlehem University, Bethlehem, 27 November 1980.

16/ Military Order No. 101, 27 August 1967, as amended by Military Order No. 718, in International Commission of Jurists, The West Bank and the Rule of Law, pp. 126-128.

17/ Ibid., p. 82.

18/ Ibid., 18 January 1981.

19/ 1980 Country Reports on Human Rights Practices, p. 1008.

20/ Orders for town arrest were issued effective 7 August 1980, and continue in effect as of this writing.

21/ The New York Times, 27 March 1981.

K. THE FUNDAMENTAL RIGHTS OF THE PALESTINIAN PEOPLE

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The question of Palestine, and in particular the fundamental rights of its people, are related to the United Nations more than any other matter. They are intertwined with the elements of the oppression, activities and aggressions carried out by zionism in connivance with its allies. The just solution to the Palestinian question is a conditio sine qua non for the general situation in the Middle East. The Palestinian question was submitted to the United Nations in 1974; in 1975, the Committee on the Exercise of the Inalienable Rights of the Palestinian People was set up, and in 1976 it submitted clear and precise recommendations to the General Assembly reaffirming the right of the people of Palestine to self-determination, national independence and sovereignty over their territories, including the right to establish its own independent State and recover their homes and properties.

Time has intensified the serious situation in the region and as a result of an initiative adopted by the Movement of Non-Aligned Countries during its Sixth Summit Conference held at Havana in September 1979, the General Assembly held its seventh emergency special session in July 1980 after the United States vetoed in the Security Council in April 1980 the draft resolution recognizing the fundamental rights of the Palestinian people. The United Nations has already organized seminars such as this one and will continue to do so.

The research necessary to discover the so-called Zionist rights over Palestine would require too much time and we would only reach the following unquestionable conclusion: there is absolutely no Israeli right over the illegally occupied Palestinian territory. The Zionists wonder who the Palestinian people are since according to them they have never existed as such; there are, however, 4 million of them, more than the Israeli living in Israel. To deny the existence of the Palestinian people is a gross statement but recently, even President Reagan wondered why the Arab countries did not distribute the Palestinians among themselves so the United States could have one less headache.

Besides the crimes committed by the Zionists during the last 30 years, they have gone to the monstrous extreme of trying to exterminate the Palestinian people and deny it its right to self-determination. In relation to this Israeli policy of extermination, the Palestinian people could well echo the words of Alfonso X, the wise king of Castile and Leòn who, in the thirteenth century, said: "Whoever deprives me of life, deprives me of my other rights", and that is precisely what the Zionists want to do.

Trampling over the existence of the Palestinian people, the Zionists want to colonize Palestine as part of the Greater Israel, which would extend from the Nile to the Euphrates, as shown by their activity throughout the years. To give an idea of how they act, it is sufficient to follow their penetration into Jerusalem: in 1947 the General Assembly decided that Jerusalem would be an internationalized city, a corpus separatum under United Nations administration; in April 1961 Jordan requested a Security Council meeting to prevent the Israelis from holding a military parade but Israel declared that there would be ... no ammunition; in July 1967 the General Assembly requested that Israel repeal all measures tending to alter the situation in Jerusalem and refrain from adopting new ones and in 1969, the Security Council censured all Israeli measures aimed at changing the status of the city. In 1970 this same Council condemned the violation and profanation of the sacred mosque of Al Aqsa and accused Israel for these actions; in 1977 the Zionists set up camp 20 miles outside the city, apparently to carry out archaeological excavations; these, however, never took place and the result was one more settlement. Finally, we must mention the fact that according to Israel, its rights over Jerusalem are equal to its rights over all of Palestine and that is why it has made Jerusalem its eternal capital.

Israel is trying to change the demographic nature of Palestine, destroy the Arab identity and put the world before a fait accompli, hiding the fact that the Palestinian people can exercise its right as a people. The Zionist way of thinking is thus quite clear: occupy all Palestinian territories, make Jerusalem a Jewish city, occupy other Arab territories and attack some Arab States of the region such as Lebanon, Syria and Iraq. Israel unashamedly declares that there is a Jewish State in Palestine as well as an Arab State - Jordan - and that the Palestinian Arabs have a right to their self-determination there.

The existence, establishment and admission of Israel to the United Nations was conditioned to its respecting the frontiers set up in the 1947 General Assembly resolution 181 (II) on the partition of Palestine, which defines very specific borders for the State of Israel and the Arab State of Palestine, as well as a special status for Jerusalem. It is interesting to note that Israel is the only State in the world with no fixed geographic frontiers to the north, to the south or to the east. Nor does it want any since this allows it to extend its borders as a result of its aggressive expansionism. Proof of this is its reiterated position that it does not intend to stay within the frontiers defined by the United Nations.

Palestine has been the object of direct and constant aggression as a result of the settlements set up by Israel, which has made its settlement policy one of the main pillars of its system - a colonial policy which challenges not only the Palestinian people themselves but also the international community as a whole since its final aim is to make them Jewish territories and annex them, thus grossly violating international law and the obligations Israel assumed when it became a Member of the United Nations. All this explains the fact that more than 130 Zionist settlements already exist in the occupied Palestinian territory. Israel is trying to make its presence and domination of the occupied Arab territories an irreversible fact to prevent the creation of an independent Palestinian State; that is why it even takes the liberty of calling the occupied Arab territories "administered zones" and "liberated zones".

The inhuman way in which it treats the Arab people of the occupied territories is something else again. For a long time Israel and its allies tried to reduce the question of Palestine to a question of refugees. But the international community has become fully aware that the Palestinian problem is not a question of refugees but one of self-determination, and that Palestine will be an independent State with full rights for its people; that the problem does not reside in sending additional assistance to the refugees, who are suffering as a result of the exile imposed on their people, but of the right of these people to return from this illegal expulsion to live in its own independent State.

It is absolutely necessary to say this in order to understand the meaning, the essence of the fundamental rights of the people of Palestine. But we must first mention two additional matters: when imperialism defines all national liberation struggles as terrorist struggles, it would be good to recall that terrorism was officially and extensively practiced by the Zionists even before they became a State and they have continued to practice it even more intensively as a system. It is part of Israel's daily routine against the Arab world and in particular against the Palestinian people. Does anyone ignore Menachem Begin's long record as a terrorist? And the Stern group, among others? Who does not recall that the United Nations condemned the Israeli terrorist attack against Count Folke Bernadotte - the mediator sent by the United Nations - carried out in Palestine itself in November 1948? And is it not true that the terrorist group Gush Emunim exists with the full backing of the Zionist Government? Israel has institutionalized terrorism and this is evident by the numerous resolutions adopted by the General Assembly and the Security Council to condemn them. The other argument put forth by Israel is its own security, its claim to the right to live within safe frontiers, but it is not really interested in defining them; it speaks of its security just like Yankee imperialism and the Pretoria regime, who trample over the security of others but want to guarantee theirs. Israel is interested in extending its borders not because its security is endangered but simply because it wants to fulfil zionism's old dream.

On the other hand, Israel has reiterated the practice of faits accomplis to back its demands; that is the language it recurs to, and it makes permanent use of it. But here it is wrong because faits accomplis will never legitimate its crimes; Israel will never be able to use the principle of effectuality since an unlawful act in itself cannot create lawful situations, only de facto situations which can sometimes become lawful. We must also remember that in international law, a right can never be the result of an illegal action since the ex injuria non acitur principle is always enforced.

We now come upon the first and foremost right of the people: the right to self-determination as a condition for all other rights, an imperative rule of international law, a jus cogens which can never be repealed. A nation has been living on Palestinian soil from ancient times: the Palestinian nation, with its own rights; they are a people, a nation in struggle, with a sole legitimate spokesman: the Palestine Liberation Organization (PLO). They have countered four wars of aggression unleashed by Israel in the last two decades and they face dispersion displacement forced exile settlements, and the violation of their human rights. They have raised the banner of their fundamental national rights, which are imprescriptible, cannot be handed over or usurped: their right to return; to equal rights with other States; to self-determination and national liberation; to struggle for the recovery of their homeland; their Palestinian nationality; to indemnity for all their properties seized by force, and to demand and obtain all kinds of moral, political and material assistance for their struggle.

Theirs is a serious problem: their rights have been usurped by a group of foreign people who are trampling all moral or international rules. Is it necessary to recall the consensus reached throughout the world over the legitimate rights of the Palestinian people: their right to self-determination, the creation of an independent State, the return of their homeland, the principle of non-interference in their internal affairs? In spite of all this, the United States vetoed the April 1980 Security Council resolution and refused to recognize the inalienable rights of the Palestinian people.

That is why the international community has worked so hard on this matter, carrying out different activities culminating in this important seminar. That is why General Assembly resolution 3236 (XXIX) reaffirms the inalienable rights of the Palestinian people; why such an important Committee was set up in 1975 and why its objective and impartial recommendations have been approved by the overwhelming majority of the General Assembly.

We are not before the classical case of a people denied its right to self-determination but before a people uprooted from their land and dispossessed of its properties; and meanwhile, the Zionists are carrying out their settlement policy.

F. ZIONIST POLICIES OF EXTERMINATION AND EXPANSION IN THE OCCUPIED TERRITORIES

Maki N'Diaye,
(Minister for Foreign Affairs of Mali)

1. The policy of extermination and expansion in the occupied territories

I would like to begin by expressing my heartfelt thanks to the Committee on the Exercise of the Inalienable Rights of the Palestinian People for inviting my country, Mali, to participate in the work of this Seminar. I also wish to express my appreciation to the Senegalese authorities for their hospitality and for their exemplary organization of this meeting. I can assure you that we stand fully prepared to contribute to the success of this Seminar, which we consider to be an important step in the search for just solutions to the Palestinian problem.

The aspect of Zionist policy in the occupied Arab territories which we will endeavour to discuss here is the policy of extermination and expansion conducted by Israel.

For a better grasp of the problem, we should examine the historical background.

2. Creation of the national homeland

The two factors permitting the creation of the national homeland were land and people; the land was obtained in Palestine, and the people came from abroad, under the Jewish immigration programme. Operations were in both cases marshalled by the Zionist organization through "Jewish agencies". The Arabs' existence was practically ignored, and the slogan proclaimed abroad to promote immigration was: "A land without people for a people with land".

Encouraged by the Mandatory, the Zionists openly advertised their intention to dispossess the non-Jewish inhabitants of Palestine of almost all their land, through purchases of various kinds. There was a wave of mass immigration shortly after the Balfour Declaration, well before the Mandate's entry into force in late 1923. Between 1920 and 1929, the population of Palestine, officially estimated at 750,000 in 1922, was swollen by the arrival of approximately 100,000 immigrants, mainly from Europe, who raised the proportion of Jewish inhabitants from 10 to 17 per cent.

3. The Jewish immigration strategy

In 1896, in the publication Jewish State, Theodore Herzl, founder of the Zionist movement, wrote: "The idea I have expounded upon in this pamphlet is a very old one. It is that of the restoration of the Jewish State ... grant us sovereignty over a part of the globe which is sufficiently large to satisfy a Nation's legitimate needs, and we will do the rest".

This statement demonstrates that the strategy of land seizure is not a recent invention.

4. Continued Israeli exactions in the occupied Arab territories

For over 30 years, the martyred people of Palestine have daily been subjected to the worst forms of injustice, oppression and humiliation by a State whose policy has been deliberately based on the annexation of land and denial of the principles proclaimed in the Charter of the United Nations.

Israel has conducted and continues to conduct depopulation campaigns designed to introduce foreigners into the region in place of the indigenous Arabs, while at the same time it pursues its policy of creating settlements within the occupied territories.

5. Gaza and the West Bank

As we all know, at the end of the 1967 war, Israel occupied the West Bank and the Gaza Strip. Settlements were established in those territories, to the detriment of their native inhabitants, the Arabs, and in violation of the Charter of the United Nations, international law and the resolutions adopted at the time condemning that illegal occupation. Since then, Israel has carried out an intensive settlement policy in these regions and numerous Jewish settlements, mostly agriculture, have been established. Between 1967 and 1976 the Zionists set up 76 paramilitary settlements and the current total is estimated at 140. Particularly large numbers of settlements have sprung up in Judea and Samaria (the West Bank), that is, in the vast agricultural region which extends from Jenin in the north to Hebron in the south. There are already 25,000 Israeli settlers in this region alone, and the total number of settlers is expected to grow to 100,000 over the next few years. Israel's policy of settlements is designed to control the natural, agricultural and water resources of the West Bank and Gaza, a deliberate violation of the Fourth Geneva Convention of 1949, which stipulates that a State that occupies a territory belonging to another country cannot transfer a part of its own population to that territory.

6. The Syrian Golan

In December 1981, Israel annexed the Syrian Golan. Worse still, on the Syrian Heights, Israel has since done its utmost to suppress the identity of the population which has fallen under its yoke. More than 300,000 Palestinians and thousands of Syrians have been driven from their land. In the Golan, about 13,000 Druzes have been subjected to a criminal blockade because of their refusal to be issued with an Israeli identity card.

7. Jerusalem

The overall strategy of integrating Palestinian territories into the State of Israel is designed to seize Palestinian land and property, but in addition, Israel has outraged international morality by declaring "Jerusalem", a holy city three times over, its eternal and indivisible capital. The international community's indignation over such usurpation of a city forming part of mankind's common heritage was reflected in the adoption of Security Council resolution 478 (1980) in which the Council "censures in the strongest terms the enactment by Israel of the 'basic law' on Jerusalem and the refusal to comply with relevant Security Council resolutions". In spite of the disapproval of the General Assembly, Israel, under the pretext of undertaking archaeological excavations, is continuing to dig a tunnel under Al-Haram Al Sharif, thereby threatening the very existence of holy places which are among Islam's most revered and which are considered as part of mankind's heritage. It therefore becomes quite clear that this criminal practice on the part of Israel also has an anti-Islamic character.

8. Lebanon

The Hebrew State continues to hurl defiance at mankind. The events in Lebanon show that, despite the cease-fires, Israel is sticking to its overall strategy of banishing the Palestinians from their homeland. Israel's policy is becoming more and more cruel, with the most sophisticated weapons being used against unarmed civilians and the Palestinians in refugee camps. As an illustration, it may be mentioned that, among the thousands of persons killed at Beirut, 112 people died in 12 minutes as a result of massive Israeli shelling. Beirut is now consumed in flames which are carrying off old people, women and children and causing untold material damage. This war, which continues to be a source of tragedy and destruction, is linked to the non-recognition of the most elementary rights.

9. The desecration of the holy places

The strategy of extermination adopted by zionism is not confined to towns and villages, but is pursued even in the holy places. On 11 April 1982, when Muslims and Christians were performing their religious duties, the Al Aqsa mosque and the Dome of the Rock were the theatre for Zionist-perpetrated killings, in total disregard for universal morality. This sad and heavy toll of hate-inspired bloodshed was blithely attributed to a mentally disturbed person, as was emphasized by the delegation of Mali at the seventh emergency session of the General Assembly on Palestine.

10. The dismissal of the mayors of certain townships

The dismissal of the Arab Town Council in El Bireth and the Mayors of Nablus and Ramallah is a demonstration of Israel's determination to impose its own jurisdiction in the occupied territories.

11. Denial of the right to culture

To name but one example in the area of education and culture, the Bir Zeit University was closed down by the Israeli authorities and professors, including foreigners, were arrested. Israel's various anti-Arab practices constitute flagrant violations of human rights. At its 37th session, held from 2 February to 13 March 1981, the Commission on Human Rights adopted a resolution again condemning those practices, which were aimed at:

(a) The annexation of parts of the occupied territories;

(b) The establishment of Israeli settlements in the territories and the transfer of an alien population thereto;

(c) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories;

(d) The confiscation and appropriation of Arab property, etc.

The aim which Israel pursues through its policy is to force the Palestinians to emigrate through the use of various means:

(a) Recourse to various methods of repression and violations of human rights;

(b) To liquidate the Palestinian resistance.

Through these military adventures, the Zionist State has sought to banish the Palestinians and to liquidate the Palestinian resistance, embodied in the Palestine Liberation Organization (PLO), which remains hostile to any form of autonomy in the occupied Arab territories. Israel's objective is to eliminate the PLO, thus presenting the population with a fait accompli so as to bring it to accept autonomy.

Nevertheless, the Palestinian masses in the occupied territories remain firmly determined to resist foreign domination. Nothing - whether it is bloody repression, arrests or abuses committed against the population - can sap their resolve. As Yasser Arafat, the PLO leader, has stated, there will be no peace or stability in the Middle East until the right of the Palestinians to self-determination and their right to return to their territories and to create an independent State are recognized.

12. Efforts to find solutions

There is an immediate need for urgent measures to cope with Israel's exactions. The Security Council should remove all obstacles to the search for solutions to the Palestinian problem in particular, and the Middle East problem in general. The provisions of Chapter VII of the Charter of the United Nations should be applied to Israel, which continues to endanger peace. To be effective, United Nations action must be supported by all States, large and small, all governmental or non-governmental organizations and all religious organizations - in short, all peace- and justice-loving forces.

Buoyed by moral and material support from its friends, Israel is determinedly practicing exactions and aggressions of various kinds. The violations of the rights of the Palestinians in the occupied Arab territories and the relations between Israel and its friends offer a perfect example of indirect responsibility under international law: a State which abets another State in its exactions is no less responsible than the State directly committing them. The Palestinian problem is at the heart of the situation in the Middle East. The Republic of Mali has repeatedly stated - and will never tire of stating - that the Palestinian problem is at the heart of the situation in the Middle East. Any solution designed to restore peace in that region will have to result from comprehensive negotiations under United Nations auspices involving all the parties to the conflict, including the PLO.

One of the abiding features of my country's international policy is its constant support for peace- and justice-loving peoples. Mali has always spoken out in favour of the exercise of the inalienable rights of the Palestinian people. The right of the Palestinian people to freedom, self-determination, sovereignty, survival and to the expression and democratic exercise of its profound aspirations is in conformity with the Charter of the United Nations and international law. His Excellency General Moussa Traore, President of the Republic of Mali, addressing the General Assembly at its thirty-sixth session, stated: "The Zionist State, more than any other, should be aware that one cannot attempt with impunity to exterminate an entire people standing behind the Palestine Liberation Organization, its sole and authentic representative".

The opening at Bamako of a PLO office with the status of a diplomatic mission is a further demonstration of solidarity with the courageous Palestinian people. This solidarity was also manifested in the various messages which President Traore addressed to the brother Arab peoples, the Arab League, the Islamic Conference and the United Nations following the invasion of Lebanon.

VIII. EIGHTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE

(9-13 May 1983,
Jakarta, Indonesia)

A. ISRAELI POLICIES AND PRACTICES IN THE OCCUPIED PALESTINIAN AND ARAB TERRITORIES IN THE LIGHT OF RECENT EVENTS IN THE REGION

I. B. Fonseka
(Chairman of the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories)

The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories has been in existence since 1968. Its creation followed immediately after the efforts of the Security Council, which had started immediately after the hostilities of June 1967. The reports of the Special Committee have attempted to bring before the United Nations General Assembly the reality of the human rights situation which the Special Committee has catalogued from year to year, and each year the Assembly has renewed the mandate of the Special Committee.

The renewal of the mandate constitutes a sign of concern with the situation and of confidence in the Special Committee. However, in spite of this, the human rights situation in these territories has steadily deteriorated over the years. This deterioration provokes the need to enquire into its causes to see what could be done not only to stop this deterioration but also to reverse a dangerous situation.

Fifteen years of occupation have been utilized by the occupying Power to impose an infrastructure aimed at the eventual eviction of the Palestinians and Syrians from their respective homelands. Indeed, in the case of the occupied Syrian territory in the Golan Heights, the Government of Israel in December 1981 promulgated legislation purporting to annex this territory.

The Special Committee has found that the fundamental right to self-determination is being utterly disregarded. It is a matter of record because it has been so stated by the present Government of Israel at least during the last five years that this disregard is a natural result of the so-called "homeland" doctrine. According to this doctrine, international law notwithstanding, the territory occupied in 1967 constituted part of the "Jewish homeland" and therefore ceased to be "occupied territory" in the eyes of the present Israeli authorities. Based on that assumption, a policy has been elaborated and implemented which would envisage the extension of Israeli sovereignty over these territories.

It may be pertinent here to dwell briefly upon what constitutes the human rights of the population in the occupied territories. In the first place there is the right to self-determination. As regards the civilian population of the Golan Heights it would mean the reintegration of the territory and the people with the Syrian Arab Republic, and as regards the West Bank and the Gaza Strip the right to self-determination of the Palestinian people as repeatedly confirmed by the international community.

In addition to the right to self-determination, international law recognizes the fundamental rights of civilians under military occupation; these rights protect the person and the property of the civilian during such occupation and include such basic rights as the right to life and integrity of the person. Essentially international law considers military occupation to be a "temporary de facto situation" where the only modifications allowed to the local regime are those required by the need for the maintenance of order and security. Thus the Fourth Geneva Convention of 1949[1/] expressly prohibits any measures affecting the right to life or the physical integrity of the person, the arbitrary destruction of property, any measures affecting the ownership of property in an occupied territory, including the attempt to annex territories under occupation, and of course the transfer of civilians from the territory of the occupying Power into the occupied territory.

The Government of Israel has been a party to this Convention without any reservation since the early 1950s.

At present there are over 130 settlements physically established in the West Bank, the Gaza Strip and the Golan Heights, all of which are inhabited by Israeli citizens transferred thereto by express intent of the Israeli Government.

The map reproduced in annex I to the latest report of the Special Committee (A/37/485) is a graphic presentation of officially announced Israeli measures for the establishment of such settlements. It may be noted that by comparison with the territory concerned these settlements constitute a conscious and deliberate infiltration of Israeli presence in the territories occupied in 1967.

In its successive reports the Special Committee brought to the attention of the Assembly that by May 1976 64 settlements had been established (A/31/218, para. 329) and by the following year 84 settlements (A/32/284, para. 247). It will be seen that the establishment of settlements, which was started immediately upon the occupation of 1967, has not ceased. Indeed, it is somewhat ironical to recall the explanation given by the Government of Israel to a complaint by the Government of Jordan about the incursion of a group of Israelis into Hebron in 1968: the Government of Israel then offered the explanation that this group of Israelis were no more than a group of religious Jews intending to celebrate Passover in Hebron. This group was in fact the origin of the Israeli settlement in Hebron is known as Kiriat-Arba, which is to be found today settled on the hills overlooking Hebron. They are today a community numbering several hundreds Israelis, with their own court and their own militia, still expanding and encroaching steadily on Palestinian property in their periphery and beyond.

That progression of settlement and encroachment has not stopped. Attention may be drawn to a report from Jerusalem as reported in the Times of London on 11 November 1982, according to which the number of settlers in the occupied West Bank was to double in the next year. The report reflects a statement by a senior official of the World Zionist Organization (Mr. Ze'ev ben Yosef) and speaks of a "massive new influx of settlers" and the construction of thousands of permanent new housing units. According to this statement, the number of Israeli settlers in the occupied territories was to double, from 25,000 to 50,000, not including East Jerusalem, over the next year; it will reach 100,000 by 1987 and 1.4 million by 2010.

The settlements are constructed on land which belongs to several types of proprietors; as reflected in the report of the Special Committee, land has been taken over through various devices such as outright expropriation, without reasons being given, expropriations for "security" purposes, which was fashionable in the late 1960s and early 1970s, and more recently purchase of land by the World Zionist Organization through agencies set up for the purpose, albeit illegally, such as the "Himanuta Company" operating from Bethlehem. In its reports to date the Special Committee has repeatedly described the various devices used to take over land in the occupied territories. Nor should one lose sight when speaking of expropriation, of Jerusalem where Palestinians have been systematically removed throughout the occupation, leaving today a handful of Palestinian Arab families, all of whom may eventually have to go elsewhere if Israeli policy is allowed to continue.

The extent of the expropriation of land in the occupied territories is reflected in a study by Mr. Meron Benvenisti, former Deputy Mayor of West Jerusalem, undertaken for New York University, which shows that Israel may seize some 60 per cent of West Bank lands (as reported in Ha'aretz on 14 September 1982). Additional reports on the confiscation of large tracts of Arab land have continued throughout the first months of this year. Indeed, no later than the beginning of March 1983, it was revealed that Israel was planning to build a Jewish town above the largest Arab city in the West Bank, Nablus; it may be recalled that it is in Kiryat-Arba, the Jewish town built above Hebron, that most of the recent anti-Arab acts by Jewish settlers were initiated.

As the number of settlements increased over the years of occupation, so did the number of settlers. Let it be noted in this context that under international law, the Government of Israel bears full responsibility for the acts of the settlers planted in the occupied territories. Reference may be made to article 53 of the Fourth Geneva Convention. Up to some five years ago the role of the settlers in regard to the human rights situation of the civilians was perhaps marginal. However, as the Special Committee had occasion to learn already in 1979, the settlers were involved more and more frequently in reports of forced expropriation of property, including acts of violence on local civilians. By 1980 (A/34/631, para. 373) the activities of these settlers had become so marked that the Special Committee found it necessary to single out this phenomenon. During that year there were reports of rampage by Israeli settlers on a large scale, damaging property, afflicting personal injuries and in certain cases death, in the occupied territories (A/35/425, para. 299). One does not need to be reminded of the fate - the maiming - of Mayor Shaqaa of Nablus and Major Khalaf of Ramallah in 1980 and the perpetrators of that deed remain at large. During the months of February and March 1983 not one day passed without reports on "punitive actions and acts of vandalism or provocation perpetrated by settlers against the local Arab population". This wave of violence culminated in mid-March in the abortive attempt by a large group of settlers to occupy one of Islam's holiest sites - the Temple Mount (Haram El-Sharif) in Jerusalem. In its 1981 report the Special Committee had occasion to underline this phenomenon once more (A/36/579, para. 394) and indicated its conclusions that the Israeli authorities were indeed conniving at the settlers' activities, of which the civilian population was the victim.

The classic case illustrating the policy of annexation of the territories occupied in 1967 is that of the Golan Heights. In December 1981, the Government of Israel formally extended the jurisdiction of Israeli law to the Golan Heights purporting to "annex" this territory of Syria. The redoubtable resistance of the Syrian Druze population is a matter of record. Few would endure what they were subjected to for months on end in early 1982 at the hands of the Israeli army and what they are at this very moment still undergoing.

The official Israeli view on the future of the West Bank and the Gaza Strip was reflected in a declaration by the Israeli Foreign Minister, Yitzhak Shamir, reported on 3 March 1983 in the Jerusalem Post. Mr. Shamir stated that Israel "did not conquer the territories from their legal owners, but liberated them from countries that conquered them in 1948. We have not 'annexed' them, and shall not 'annex' them. They are part of Eretz Yisrael, and what is part of your country you do not annex".

In addition to the measures that the Special Committee referred to, aimed mainly at alienating land from the civilian population, one would surely have seen if not from the report of the Special Committee, then from the international press about the individual Palestinians in the West Bank and the Gaza Strip and the Syrians in the Golan Heights, who are the victims of continuing measures aimed at forcing them to leave their homeland or to remain only as second class citizens. For example, it is statistically correct that in the years of occupation, the agricultural community has dwindled significantly, primarily because of the shortage of land and the discouraging prospect for farmers in the West Bank and the Gaza Strip. The labour force thus displaced has had to accept work in the Israeli construction industry or depart as migrant labour in other Arab countries. In the case of those who leave for other Arab countries, it should be known that the right to return to their West Bank and Gaza homes, once they leave, is subject to severe restrictions. Indeed all aspects of economic activities in the occupied territories are minutely controlled by the military authorities quite contrary to the Geneva Convention.

Military Order No. 854 was promulgated with the avowed purpose of reforming education. It has been used purely and simply as a device to prevent the evolution of the higher educational institutions that had taken root in the early years of occupation, and to suppress every manifestation of Palestinian patriotism.

The efforts at the application of Order 854 have resulted in the dismissal of several academics who refused to sign undertakings not to support the Palestine Liberation Organization as a condition for receiving licences to teach.

The iniquity of Order 854 was pronounced last November by the United States Secretary of State, Mr. George Shultz, when he stated that the Order was a problem of freedom of thought and an abridgement of academic freedom totally unnecessary for Israel's security. The Secretary of State, himself a former university teacher, appropriately compared Order 854 to the highly controversial loyalty oaths sought from the American academic community in the late 1940s and 1950s.

The same question may be posed as to why the military authorities seek to dismantle the municipal structure elected at the initiative of the occupying authorities themselves earlier in the occupation. Order 947, purporting to set up a "civil administration", led to the removal of the lawfully elected municipal councils and mayors and their substitution in the occupied territories by the so-called "village league" councils made up of a few hand-picked nominees having no popular mandate whatsoever.

A valuable study was published by the International Commission of Jurists in 1981 showing how the military authorities had in fact legislate don all aspects of civilian life, changing the entire legal regime applied in the territories. The average civilian finds himself answerable to a completely new legal system in all aspects of his everyday life, and interfering with his day-to-day existence and a normal life.

It is only to be expected that the civilian population finds it hard to live with these limitations. The table contained in paragraph 150 of document A/37/485 gives a calendar of incidents recorded over the period covered by the report, occurring in various towns and villages and attributed to sources which no one has yet questioned. This table is itself a shortened version and is intended only to give an idea of what the average civilian in the occupied territories has to face. It is not shown to justify violence, although each incident reflects violence. It is meant to reflect the tenacity and determination with which the Palestinians in the West Bank and the Gaza Strip and the Syrians in the Golan Heights are in fact resisting the military occupation that has been their lot since 1967. Last year and the first months of this year in particular have been characterized by bloodshed, the extent of which has not been witnessed before. Neither is it realistic to imagine that these people will disappear and thus end the problem. One should remember that these are people who have been under occupation for 15 years, an occupation whose duration is without parallel in this century.

Notes

1/ United Nations, Treaty Series, vol. 75, No. 973.

B. JEWISH SETTLEMENTS IN THE OCCUPIED WEST BANK - HOW THE LAND WAS ACQUIRED FOR THEIR USE AND HOW THEY ARE STRUCTURED

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The present study is being written as the settlement drive, which has been going on at a fast pace for several years, is still continuing. The passage of time makes it possible, however, to arrive at concise formulations of the methods that have been and continue to be used for the take-over by Jewish settlers of the West Bank Arab lands. It is also clear now what plans have been made for those lands that have already been acquired as well as for the remaining parts of the West Bank.

The present Israeli Government's policy towards the West Bank land is to acquire, for Jewish settlements, all the land that it is possible at this stage to acquire by the legal methods that are being presently employed. As to the remaining areas, the policy is to prevent, as far as possible, Arab developments on them.

This paper will be divided into two sections. The first will describe the methods used for the acquisition of Arab land and the second will discuss the Israeli settlements and the laws and plans that have been made to restrict Arab development in land that has not yet been transferred to the settlements.

Methods used to acquire Arab lands

The settlement of Jews in the occupied West Bank started with the beginning of the occupation.[1] Different Governments in Israel have pursued different settlement policies, and the objectives they have sought to achieve through settlements as well as their policies towards the West Bank have undergone many changes. The settlement had continued although the methods for acquiring lands have changed and have had to be adapted to the changing policies. When the drive for settlement intensified, new means for acquiring extensive areas of Arab land had to be adopted.

It is possible to proceed chronologically to discuss the developments of the various methods for acquiring land and the use of each at different historical stages, while at the same time relating these developments to the changes in the Government's settlement policy. However, such an approach may complicate an already complex subject, and there has always been an overlap when different methods have been employed simultaneously according to the conditions applicable to each area of land to be acquired.

The order of discussion to be followed, therefore, will be to start with the more usual methods employed for the acquisition of land for Jewish settlement, and them to describe less commonly used methods.

Acquisition of land by declaring it to be "State land"

When the occupation of the West Bank by Israel began in June 1967, only one third of all West Bank land had been registered under the operation of the Settlement of Disputes over Land and Water law.[2] Registration was begun by the British Mandate Government.[3] The Jordanian Government continued it, but it was a slow, protracted process.

In 1967, the Israeli authorities suspended all operations under the settlement of disputes law.[4] Ownership of the remaining two thirds is attested by possession of a Turkish or British certificate or registration, or through registration in the tax registers. Title under Jordanian law is also proven through purchase and use.

The law that continues to govern land holdings in the West Bank is the Ottoman Land Code,[5] as amended and developed by legislation passed during the Jordanian regime and the military orders issued by the military authority since the occupation. The theoretical basis of the Ottoman Land Code, however, continues to apply.

According to the Land Code, all lands in the West Bank are classified into the following categories:

(a) Waqf land, which is land that is dedicated to pious purposes;

(b) Mulk land, which is the land that was initially given out by the Ottoman conqueror of the area (who considered himself the owner, by conquest, of all the lands he occupied) to the Muslim residents and the Khuraj lands handed over to non-Muslims;

(c) Miri, matruke and mawat lands, all considered by the Israeli authorities to be "State lands"; miri lands are lands that the Ottoman Amir did not allow to be dedicated as waqf or given out to be possessed as mulk. It is land whose raqabah (or ultimate ownership) continues to reside with the Amir, but whose use he has allowed for the public under certain conditions.

The theoretical basis of this conforms to the theoretical basis of other systems of land law, e.g., English land law. There also, all the land came into the ownership of the Crown with the Norman invasion when it was acquired by conquest. The Crown has given out the land to the people to use in accordance with different rules. But the maxim "no land is without a lord" has always applied, and the ultimate lord is the Crown. However, this only provides the theoretical basis. In practice, the only lands that are in the actual ownership and possession of the Crown in England are those areas that are classified as crownhold. The rest are in the actual ownership and possession of their registered owner or user, as the case may be.

Similarly, the theoretical basis of the Palestinian land law was never altered, but the actual implications of the law have been subjected to several amendments during the Turkish, British and Jordanian regimes. Jordanian law No. 49 of 1953,[6] for example, removed all the restrictions previously existing on the extent of the use that the possessor of miri land could make of the land, thus removing any practical difference that existed between the powers of the owner of mulk land and the owner of miri land. Similarly, a Jordanian law of 1953[7] declared all miri lands falling within the municipal areas as transferred to mulk land. Some differences, however, continue to exist in the way each category of land devolves upon the death of the owner. The present Israeli policy, however, is to consider miri land as State land, confusing the theoretical with the actual.

Another category of land that is considered to be State land by the military authorities is matruke land. This category (as the name in Arabic implies) is land that has been left for public purposes, such as the building of roads, cemeteries, etc. The third category is mawat land, which is considered dead land because it lies further from the village "than the human voice could be heard" (in the words of the Ottoman Land Code).

The Ottoman system and all later Governments until 1967 acknowledged that the land surrounding the village was for the use of the villagers, either as common pastures or for the future development of the village. The inhabitants of the village did not have any need or opportunity to register their lands. They knew amongst themselves which of the village lands belonged to which families and which were owned in common (Mashaa).

The land that has been registered under the operation of the law for the settlement of disputes includes lands that fall under each of the above five categories, with the exception of some type of waqf land, which, having been inalienably dedicated to the Almighty, cannot be registered in the name of a private owner.

Although according to the Ottoman Land Code there was no category of public or State land, the Government of the British Mandate introduced this category through the 1922 Order-in-Council.[8] Article 2 of the order-in-council defined public lands as "all lands in Palestine which are subject to the control of the Government in Palestine by virtue of treaty, convention, agreement or succession and all lands which are or shall be acquired for the public service or otherwise".

It is apparent from the definition that public lands are restricted to lands that are subject to the control of the Government and used in the execution of its purposes, such as the erection of government buildings, etc. They do not include land that is not the subject of a grant to the public, and therefore do not include miri, mawat and matruke lands, whose raqabah remains with the Sultan, but upon which no actual control is exercised by the Sultan. The definition includes lands that are to be acquired for the public service, by expropriation, for example. The High Commissioner was vested with all rights in or in relation to such public lands in trust for the Government of Palestine. The position of the Sultan as the ultimate owner of the land (the holder of the raqabah) was necessarily transferred to the High Commissioner who replaced him and who inherited the Sultan's ultimate theoretical ownership of all the lands in Palestine.

The Jordanian Government proceeded on a similar basis. The term "State or public land" is defined in two Jordanian laws. The first, passed in 1961,[9] deals with the protection of State land and property. The definition given is as follows: State lands and properties are all immovable properties registered in the name of the Treasury as principal or on behalf of those having an interest therein, or registered in the registry of mahlul lands and any other lands or properties of the State. They include mawat lands, but not forested land, the protection of which is vested in the forestry department.

The above definition must be read in conjunction with article 8 (3) and (4) of the Law for the Settlement of Disputes over Land and Water of 1952. Article 8 (3) provides that "lands used for public purposes which are of the metruke category shall be registered in the name of the Treasury on behalf of those who have use thereof". Article 8 (4) provides that "any right in any land or water that is not proven by any claimant shall be registered in the name of the Treasury".

The 1961 law, from which the definition of State land quoted above is taken, declared the establishment of a special court to investigate cases of trespass on land. It was intended to provide for the protection of lands registered in the name of the State and lands without a registered owner. That is why mawat lands were included in the definition of State lands given in that law. The other Jordanian law that defines State lands is a 1965 law.[10/]

State land is defined there as all immovable property that the State uses or owns according to the laws in force. It is significant that the definition of State land in the later law did not refer specifically to the earlier, 1961, law. When the definition of State land in the two laws is compared, it becomes clear that the definition in the 1965 law is the more general one, whereas the earlier law defines State land only "for the purpose of the law". As has been mentioned above, the 1961 law was to provide for the protection of the lands registered in the name of the State and lands without a registered owner. The inclusion of mawat land in the definition of State land is understandable in view of the aim that the law was passed to achieve.

Inspection of the records of lands that were registered before 1967 shows that a certain (although small) proportion of the land on the West Bank is in fact registered in the name of the State. This includes land that the Jordanian Government expropriated under the Law of Land Expropriation for Public Purposes[11/] and land that was acquired under the 1935 (Emergency) Defence Regulations.[12/]

It was never the practice of the Jordanian Government before 1967 nor is it now the practice of the present Government in Jordan to consider all lands except land falling in the waqf and miri categories as State land. It is therefore correct to conclude that in June 1967 State lands comprised those lands that were already registered by the operation or one or another of the laws in force in Jordan that allowed the State to acquire land for public or military purposes. That category of State land was not thought to be a closed one. Other lands were liable to be included in it in accordance with articles 8 (3) and (4) of the settlement of disputes law quoted above. However, that could not occur after 1967 because Order No. 291[13/] issued by the West Bank area commander suspended all the operations of the settlement of disputes over land law.

This was the condition of the land law and registration when Military Order No. 59[14/] was issued by the area commander on 31 July 1967.

The Order defined State property and it provided that the "person appointed to implement the Order may assume possession over State property and carry out whatever action he sees as necessary for this".

It is not difficult to appreciate the justification for issuing Order No. 59 so soon after the occupation. During the first days of the occupation, many military orders were passed relating to the assumption of power and control over various aspects of life in the occupied territory. It is not, therefore, surprising that an order should be passed concerning the assumption of control over State property. Military Order No. 58[15/] also concerns the assumption of possession of another category of property (absentee property, which is discussed below). A few days before that, Order No. 25[16/] was issued. Later, however, Order No. 59 was amended to serve an entirely different purpose, which does not seem to have been foreseen when the Order was issued.

It is by virtue of Order No. 59 that hundreds of thousands of dunums - which constitutes the majority of land used for settlement - were declared State land and transferred to the settlers.

A careful reading of Order No. 59 in its original unamended form reveals that it was intended to enable the custodian of government property to assume control over and manage the property of the Jordanian Government for the duration of the occupation.

Pursuant to this objective, the order empowers the military commander to make arrangements concerning the means of supervising government property. The assumption of such powers over government property is to enable the Custodian to fulfil his duties and powers under the order of managing the properties of the Jordanian Government pending termination of the occupation. The present use to which this order is put, namely to declare non-registered property State land and to transfer it to the exclusive use of Jewish settlers, is clearly an improper and illegal extension of the original order, which could be justified in its original form. It is also inconsistent with article 2 of the order, which empowers the Custodian to assume possession of State property and to take whatever action he deems necessary for this. It cannot possibly be deemed necessary for the fulfilment of the intention of the order to transfer the use and ownership of government property to private individuals to use for private purposes as owners for long periods.

The present use of Order No. 59 to declare areas of land State property according to an enlarged definition began in 1979. It coincided with the decision of the Likud Government of Israel to intensify its settlement activities in the West Bank.

Before 1979 small areas of land were being acquired for the Jewish settlement of the West Bank. The methods which were used to acquire them will be described later. None of them sufficed to facilitate the transferral of the areas of land required by the Likud Government to fulfil its large-scale plans for the Jewish settlement of the West Bank. To assess the availability of legal methods that the military authorities could employ to acquire the areas of land required, a comprehensive survey of the ownership and registration status of all West Bank lands was begun in December 1979 by the Office of the Custodian of Absentee Property (which is under the control of the Israeli Land Authority) under Mrs. Plia Albeck, a legal expert working with the Israeli Ministry of Justice.

Palestinian employees of the Land Department, the Survey Department and the Office of the Custodian of Absentee Property were requested to investigate the land records and make reports. Experts in the local land law, such as Mr. Yusuf Atallah, the Director of the Lands, were encouraged to make available their knowledge about the land law.[17/]

At the same time, an important development took place, which made it imperative for new means of acquiring lands for settlement to be found. This was the decision of the Israeli High Court of Justice in the Elon Moreh case.[18/]

The case was the first instance of the Israeli High Court of Justice (because of the presence of special circumstances, such as conflicting affidavits as to the security necessity of the Elon Moreh settlement, and the settler's own statement that the settlement was for ideological and not security grounds) questioning the motives and professional judgements of those entrusted with the security of the State. The decision of the Court was that reasons of security, in this case, did not justify the requisition of privately owned land for the purpose of building a Jewish settlement. The Court also held that the Hague Regulations of 1907 were binding on Israel's governance of the territories it occupied in 1967. The Court imposed two limitations on any future recourse to the High Court in cases of land requisition or possession by military authorities:

(a) The High Court was not prepared to intervene in any dispute over the ownership status of land;

(b) Only seizures of privately owned land could be prevented or reversed by recourse to the High Court.

The decision indicated the method to be employed for future acquisitions of West Bank land for settlement purposes. The ground was already prepared for this new direction. Order No. 59 was already on the books, and Order No. 364[19/] amended article 2 A of the Order to add the following section: "Where the person responsible approved by written certificate, signed by him, that any property is State property, it will be considered as State property until the opposite is proved." This meant that the burden of proof lay on whoever intended to oppose a declaration of land as State land. Order No. 172 had already given the Objection Committee jurisdiction to hear all appeals submitted against decisions made in accordance with Order No. 59.

The comprehensive survey had revealed that the majority of land in the West Bank was not registered and fell into the categories of miri, matruke and mawat lands. The Government, therefore, decided to consider all unregistered lands falling into any one of these categories to be State land. Declarations of land as State land began to be made. Under the alterations that were carried out in the judicial system described in the second part of the present paper, the only tribunal competent to hear appeals against such decisions is the Objection Committee, which is controlled and administered by the military authorities who make the declaration. The Israeli High Court of Justice had already decided in the Elon Moreh case (as has been mentioned above) that it was not prepared to intervene in any disputes concerning the ownership of land and that it would only hear appeals concerning seizure of privately owned land. The military authorities have arrived at an arrangement that enables them to have full control over the process of land acquisition for Jewish settlement as well as over appeals submitted against any decisions made pursuant to it.[20/]

Following these changes, the acquisition of hundreds of thousands of dunums of land proceeded at a very past face and is continuing at the time of writing.

This method is the one most commonly used to acquire possession of lands in the West Bank for Jewish settlements. Before proceeding to discuss the other methods that are used, it is necessary to describe the actual steps by which land in the West Bank is acquired using this method.

When the Ministerial Settlement Committee decides to establish a new settlement in the West Bank or to enlarge an already existing one, the area of land required is considered by the legal experts at the Israeli Ministry of Justice.

Their decision is passed to the Israel Land Authority and to the Office of the Custodian of Absentee and State Lands in the area where the land in question is situated. The Custodian usually summons the mukhtar (village elder) and takes him to the area that has been declared State land and points it out to him. It then becomes the responsibility of the mukhtar to inform those members of his village whom he believes own plots within this area. They are informed that if they wish to appeal the decision, they should apply to the military Objection Committee.

With such a vague reference to the land that is the subject of the declaration, confusion often occurs as to the exact boundaries and area of the land so declared. The first indication to landowners that their land has been the subject of a State land declaration is often the sight of bulldozers working the land to prepare it for the establishment of a settlement. This is because many of the mukhtars are appointed by the military authorities and are not on good terms with the residents of the village.

If, however, the landowners are served with a written declaration, a photocopy of a map is usually appended to it. On the photocopy the boundaries of the area, the subject of the declaration, are drawn with a thick pen. The first question, therefore, becomes to ascertain the exact location of the area in question. The Office of the Custodian is rarely cooperative in this regard.

After overcoming the initial difficulty of discovering the exact area of land involved, those claiming ownership can choose to submit an appeal against the declaration to the Objection Committee. However, in deciding whether or not to resort to the Objection Committee, they must take into consideration the fact that the declaration that the land is State land is declarative and not constitutive. A decision by the tribunal in favour of the State can only add legal weight to the authority's decision.

According to the rules provided by Order No. 172 concerning appeals against a declaration of State land, an appellant (upon whom falls the burden of proving that the land in question is not State land) must submit with his appeal a survey map of the whole area in dispute prepared by a licenced surveyor, which shows the exact boundaries of all the plots claimed by the various appellants.

The area of land involved in such cases is often more than 2,000 dunums (a dunum is 1,000 square metres). The expense involved in preparing a survey map of such a large area of land can be exorbitant. The rules require that each appellant submit with the appeal a sworn statement declaring the basis on which he claims ownership of the land, as well as copies of all documents upon which his claim is based. All these must be submitted 30 days after the declaration is made. The Custodian then submits his reply to this appeal and the case is heard by the Objection Committee.

The Committee is unwilling to accept receipts for payment of tax on the land or registration in the tax department as sufficient proof of ownership. If use is the basis of the ownership claim, the appellant must prove continuous use, that is, cultivation for the preceding 10 years.

The Custodian has available to him the aerial photographs of the West Bank which have been taken periodically. These are often presented to the Committee as proof that the land has not been continuously cultivated. It is the case that the authorities have refused to grant permits to Arab farmers for the drilling of artesian wells. Agriculture, in most cases, is therefore dependent upon the uncertain rainfall. In some years the rainfall is so slight as to make not worthwhile to cultivate the land. It is also the case that, since the occupation, some West Bank residents, attracted by the availability of work in Israeli factories, have left their lands to work instead for the more secure wage provided by Israeli employers. These circumstances, together with the conditions that the Objection Committee places upon the appellants, have resulted in a low success rate for such appeals. It can also be said that the expenses involved, including payment for the professional services of a surveyor and a lawyer, are often much higher than what an average villager in the West Bank can afford.

Even if an appellant succeeds in meeting the standard of proof required by the Objection Committee, the Committee could still decide against him. Article 5 of Order 59 provides that "every transaction made in good faith between the Custodian and another person concerning property which the Custodian considered, at the time of making the transaction, to be State property, shall not be cancelled and shall continue to be binding even if it is proven that the property in question was not State property at the time when the transaction was made."

The standard of proof required to satisfy the Committee that the transaction was entered into by the Custodian in good faith is not high.

In December 1974, Military Order No. 569[21] established a department for the registration of special transactions in land. Article 2 states that transactions involving land that has been declared State land of that has been taken for military purposes should be registered. Inspection of the register has been restricted (by Order No. 605[22] amending Order No. 569) to those who are empowered to make transactions concerning State lands. Regulations concerning registration of these special transactions were published on 17 December 1974.

It is not clear what the reasons behind creating this department are. One possibility is that it is to enable registration of sales of property without the public exposure that might discourage some vendors if the transaction were to be registered in the local land registration department, especially in view of the fact that the employees in the local land departments are Arabs.

The more important objective of the order, however, seems to be to facilitate the registration of State land or land acquired for military purposes by the authorities in the name of Jewish corporations or individuals for the establishment of settlements. Article 7 of Order No. 569 states that registration under this order shall be considered as proper registration for the purposes of any law requiring the registration of transactions in land.

Because of the prohibition of public inspection of this register, it is not possible to estimate the area of the land that has been so registered. However, if, as appears possible from a careful reading of the order, the register is intended for the registration, in the name of private and corporate Jewish settlers, of land acquired by the authorities through declarations of the land as State land and by requisition for military purposes, then it is very likely that all land on which Jewish settlements have been established is registered here.

I have discussed above how the law in force in the West Bank has been misinterpreted as far as State land is concerned. Even if the definition of State land were correct, the Hague regulations state that an occupying Power shall be regarded only as the usufructuary and administrator of State property. It must safeguard the capital of the property and administer it in accordance with the rules of usufruct. A usufructuary may enjoy the use of the property but may not impair its substance or alter the character of the property.

Acquisition of property through declared it "abandoned"

The concept of "abandoned" property has its origin in the thinking of the early Zionists prior to the establishment of the State of Israel. Consistent with their belief that the Arabs did not have a strong tie to their land, Zionist activists were inclined to believe that many Arabs had abandoned or were willing to abandon their property if offered property elsewhere in the Arab world. The absentee landowners, the feudal lords who lived outside Palestine, were the first targets.

After the establishment of the State of Israel in 1948, the exiled Palestinians left behind immovable property with an estimated value of 100,383,784 Palestinian pounds. They also left behind 19,100,000 Palestinians pounds' worth of movable property. This property included extensive stone quarries, 40,000 dunums of vineyards, 95 per cent of Israel's olive groves, nearly 100,000 dunums of citrus groves and 10,000 shops, businesses and stores.[23]

Many of those Arabs who stayed were termed "internal absentees" and 40 per cent of the lands of those remaining Palestinians were confiscated as abandoned property.[24]

Islamic waqf land (land that is dedicated for a pious purpose) amounting to hundreds of thousands of dunums in Israel was also considered to be absentee land. In 1950 the Absentee Property Law[25] was passed by virtue of which a custodian was appointed to manage this property. The Development Authority - Transfer of Property Law (also of 1950)[26] established a Development Authority, which was permitted to buy the lands placed by the earlier law under the control of the Custodian of Absentee Property. Lands so acquired may not be alienated. The Development Authority has eight members from the Jewish National Fund and seven representatives of the State of Israel.

The Israeli Absentee Property Law defined an absentee as, inter alia, someone who left for a country that is in a state of war with Israel. The military order on the same subject passed in 1967 by the military commander of the West Bank, Military Order No. 58[27] defines an absentee as someone who has left the area of the West Bank before, during or after the time of the 1967 war. This definition renders a Palestinian who was resident in June 1967 in the United States, for example, which is not a country in a state of war with Israel, an absentee. This strict application of the definition, however, has not in practice been applied in the West Bank so far.

The control of the military authorities over the land registers and their successful penetration of Arab society in the West Bank helped them to identify which property is (according to the Order) "abandoned" property. However, even when the owner of the property has not left the area (and therefore his property does not qualify as absentee property) and a Jewish settlement is in need of land to establish or develop, the Custodian can still acquire possession of it and enter into transaction with third parties who are either individuals or Israeli development companies. In one such incident involving land registered in the name of an Arab who lives in an area with which the author is personally familiar, the Custodian sold over 70 dunums of land to private Israelis who were living in a settlement adjacent to this land and who wanted to enlarge their settlement. When the owner objected, the Custodian invoked article 5 of Order No. 58, which states that "any transaction carried out in good faith between the Custodian of Absentee Property and any other person, concerning property which the Custodian believed, when he entered into the transaction, to be abandoned property, may not be annulled and remains valid even it if were proved that the property was not at that time abandoned property". The tribunal authorized under the existing orders to hear appeals against decisions by the Custodian of Absentee Property is the Objection Committee constituted by Order No. 172.

The head office of the Custodian of Absentee Property is in West Jerusalem. The office is called "The State of Israel, The Lands of Authority of Israel, Custodian of State Property and Absentee Property in the Districts of Judea and Samaria". As the title implies, the Custodian of Absentee Lands in the West Bank is administered by the Israel Lands Administration (whose director is the Israeli Minister of Agriculture, ex officio), which supervises the use of 93 per cent of Israel's land area and has effective responsibility for the supervision of land acquisition and use in the West Bank.

The Jerusalem head office acts through offices in each of the major West Bank towns. Those employed in these offices (Arabs and Jews) are constantly on the lookout for more land to acquire under the pretext that it is abandoned property. They are helped in this by the legal and administrative changes that have rendered the approval of the Custodian necessary for most transactions in the land. This includes all sales and the reregistration of land, although it does not involve any transfer of land. It also includes registration of land in the name of the heirs of deceased owners. The obvious objective here is to identify any share in the land that devolves upon a non-resident that the Custodian will be able to take.

The administrative network of the offices of the Custodian also have a role in identifying and arranging for the acquisition of land under the pretext that it is State land, as has been explained above.

It is clear both from the working of Military Order No. 58, in particular the provision on transactions made in good faith, and from the practice of Israeli Governments in the past and in the West Bank at present, that it is not the intention of Israel to hold the property of absentees in trust and in accordance with the rules of usufruct pending the resolution of the conflict. The Custodian is handling that property as if he were an absolute owner and transferring it to third parties for use in a long term permanent manner.

Lands requisitioned for military purposes

Privately owned land can be seized by unnumbered military orders that proclaim that the land is needed for "vital and immediately military requirements". Such lands remain theoretically under private ownership. Many settlements have in fact been built on these lands.

Lands closed for military purposes

The military authorities may declare under Order No. 5 certain areas in the West Bank to be closed areas. Although the power to make such declarations is wide and can be used for many reasons, including, for example, the prevention of reporters from visiting a place where there is a demonstration that the military authorities do not wish to have reported, this power is more often used to "close" areas on the grounds that they are "security zones" claimed to be needed by the army as training grounds, firing ranges, etc. Closed lands later tend to become requisitioned, as was the case of the land on which the Jewish settlement near Hebron, Kiryat Arba, was established.

Land expropriated for public purposes

According to Jordanian Law No. 2, Expropriation of Land for Public Purposes of 1953,[29/] an authority or corporate body wanting to expropriate land must first publish in the Official Gazette its intention to submit to the Council of Ministers the application for expropriation of the land specified in detail in the Official Gazette. If no objections are submitted within 15 days, the approval of the Council of Ministers is applied for. When this approval is obtained, it must be endorsed by the King. It is then published in the Official Gazette and thereafter the person, authority or body interested in making the expropriation submits to the Registrar of Lands in the area where the land is situated the list of names of the owners of the land in question as well as a copy of the decision of the Council of Ministers endorsed by the King. The body requesting the order must then compensate the owners of the land with an amount equal to the market value of the property on the date of expropriation. The competent court to which any of the above decisions may be appealed is the Court of First Instance in whose area of jurisdiction the land falls.

The military orders amending this law have brought about the following changes:

(a) A military authority appointed by the area commander has been given all the powers and privileges which, according to the Expropriation Law, were vested in the Jordanian Government;

(b) The requirement to publish the intention to carry out an expropriation, the need to obtain the approval of the Council of Ministers and the endorsement of the King, the necessity to publish the approval again and the requirement to submit the pertinent documents to the land registrar are not applicable when the body seeking the expropriation order is one appointed by the Military Commander;

(c) The right of the owner of the land to appeal against the expropriation or the compensation to be paid for the land has been transferred from the Court of First Instance to the Objection Committee;

(d) A new article has been added to the law whereby the area commander may order that force be used to evacuate the owner of the land if he refuses to vacate it within the period decided upon by the area commander. Anyone resisting such an order may be imprisoned for a period of five years or fined or made to suffer both punishments.

The effect of the above changes is to make it possible for sponsors of Israeli settlements and any other body of which the military Government approves to expropriate land quietly without having to go through the requirements of announcing his intention or obtaining permission from non-military bodies. It also removes from the local courts the power to review decisions as to expropriation or as to the compensation to be paid for the expropriated land. The aggrieved party is left with the remedy only of appealing to the Objection Committee, which as explained earlier is composed entirely of military personnel. Finally, in many cases it has imposed a heavy punishment on any owner resisting the execution of the order.

The Expropriation Law as amended has been used by the military authorities to acquire land for roads, including arterial and access roads to Israeli settlements, Israeli settlers having been recognized by the Israeli High Court in one of its decisions[29/] as part of the population of the West Bank.[30/] The use of this method of acquiring land has been on the increase since the amendment of the regional plan (RJ 5, which is discussed below).

Acquisition of land for Jewish settlement by purchase

All the methods discussed above for acquisition of land for Jewish settlements are based on security grounds, or the authorities have been enabled to use them because of the state of emergency in existence in the West Bank, or they are based on some alteration or special interpretation of local law. Consequently, if peace negotiations are started or if the status of lands on which Jewish settlements have been established comes under review by a neutral body, the basis on which the land was acquired may be put in doubt. It is for this reason that acquisition of Arab land by purchase remains the method most preferred by the settlers.

It is difficult, in view of the restrictions placed on inspection by the public of the records of the Land Department, to estimate the amount of land that has been sold by Palestinians to the settlers. It is not estimated, however, that the percentage of land acquired through this method is large in relation to the areas acquired through other methods.

Jordanian law, as it existed at the time when the occupation of the West Bank began, restricted the transfer of immovable property to foreigners. The Law for the Lease and Sale of Immoveable Property to Foreigners of 1953, published in the Jordanian Official Gazette No. 1134 on 16 February 1953, prohibits "a non-Jordanian citizen from taking ownership of immovable property in the Hashemite Kingdom of Jordan except under the following conditions:

"1. That the lands he takes over the ownership of be situated within the municipal boundaries or the blocks of the town;

"2. That he first obtains a permit from the Council of Ministers;

"3. That he undertakes to be subject to the laws in force in the Hashemite Kingdom of Jordan."

Article 2 of the above law also prohibits a non-Jordanian from leasing immovable property in Jordan for a period or periods the total of which exceeds three years, unless he first obtains permission from the Council of Ministers.

Similarly, article 5 (1) of the Law Concerning the Possession of Immovable Property by Juridical Bodies of 1953[31/] (Jordanian Official Gazette No. 1140 of 16 April 1953) prohibits foreign juridical bodies from acquiring ownership or possession of property except with the permission of the Council of Ministers and provided the immovable property is within the towns and villages and that it does not exceed what the organization needs for its purposes and that it is not for mere possession or for trading. Article 8 (3) of the law allows such bodies to acquire immovable property outside the towns and villages if public interest requires it and provided the conditions mentioned above are complied with.

The area commander has acquired the powers of the Council of Ministers, and the powers of the Registrar of Companies have been acquired by the Officer in Charge of the Judiciary. The Jewish National Fund,[32] for example, has registered as local companies in the West Bank branches of the Fund which have as their objectives the acquisition of property. One such branch is Hamanuta, registered in 1971. Although all the shareholders are non-Jordanian and its registration was not in accordance with the Law, having acquired the status of a local company, the restrictions placed upon foreign persons and organizations possessing land in the West Bank do not apply.

Until 1979 this was amongst the most common methods of acquiring land in the West Bank by Jewish organizations. Other public Jewish companies not registered in the West Bank required a permit to acquire lands in the West Bank and they were given that permit by the military authorities. After 1979 the restriction on Israeli citizens to buy land in the West Bank in their own individual names was removed and permits began to be given without difficulty and they continue to be given to date.[33]

Sale of land by Arabs to Jews in the West Bank has always been considered an act of treason by the community (in Jordan it has been made a crime, carrying the death penalty, for a Jordanian citizen - which all West Bankers are - to sell land to Jews). The reason for this is the belief that, since the interest of Israel is to annex the West Bank and prevent Palestinians from having a State of their own, the sale of land is tantamount to assisting a policy of denying the society the opportunity to exercise its basic right of self-determination. Being aware of this, the military authorities have attempted to acquire all the powers of control over matters of land in the West Bank, as well as making whatever changes in the law that could enable those desirous of transferring their lands to Jews to do so in secret and without needing to resort to any public department. The following changes have been made which have bearing on this:

(a) Order No. 25 has made it mandatory to obtain the consent of the office in charge of the judiciary for any transaction involving land. Since the Camp David agreements, the powers of the officer in charge of the judiciary under this order and the powers of the director of Lands and Survey Departments which had been transferred to him are now vested in another officer. The reason for this seems to be that there was a readiness by Israel to hand over the judiciary to the local population and so the changes described in the second part of the present paper were carried out. This was the last in the series of those changes by which all the necessary powers needed for the fulfilment of the plans of Israel over the West Bank were divested on the local judicial system. Similarly, Orders No. 450[34] and No. 451[35] of 6 October 1979 declared that all the powers by virtue of the law vested in the director of the Lands and Survey Departments are transferred to the Officer in Charge of the Judiciary and as far as the Survey Law is concerned, to the Officer in Charge of Survey Matters;[36]

(b) The irrevocable power of attorney through which land may be sold by an irrevocable authorization that is given by the owner to a named attorney to register the land in the name of the buyer whose name is mentioned in the document was valid under Jordanian law for five years. Military Orders No. 814[37] and No. 847[38] prolonged the period of validity of such instruments from 5 to 10 years and later to 15. Israeli notaries public were permitted to authenticate the signatures appearing on these instruments and Israeli consuls were declared the only authority outside the West Bank with power to legalize powers of attorney. The Officer in Charge of the Judiciary was given the authority to legalize the signatures of the Israeli consuls;

(c) Military Order No. 1024[39] granted a general permission to the juridical bodies whose names are published in the appendix of the Order the right to acquire immovable property in the West Bank despite the restrictions on acquisition by foreign bodies of immovable property in the West Bank which have been mentioned above;

(d) Public inspection of the Land Registration Department has been completely restricted as far as the local Arab population is concerned. Only an owner or one who holds a power of attorney from him may acquire an extract of the deed of registration of his or his principal's property. If an extract is required for starting litigation in court, the court to which the case is submitted must grant permission to obtain the extract and the registration department will only provide the extract of the deed after receiving the court's written order;

(e) The condition of the local courts, the lack of independence of the judiciary and the power under Military Order No. 841[40] of the Officer in Charge of the Judiciary to withdraw and inspect files being heard by the courts (there are several land cases that are known to this author where files have been withdrawn by the officer from the court, causing delays and attempting to influence the outcome) make it possible to present to the court cases where one party agree with another to take up a case concerning land in which the defendant either has some interest or is only remotely connected with. The parties decide before the court to settle their apparent dispute and register the settlement in the court. By virtue of this settlement, the land is registered in the name of the plaintiff. This is one of the illegal means used to register land in the name of someone other than the owner without the owner's consent. There are many other ways in which registration of the property of another is achieved. A method commonly used is to apply for the registration of a plot of land under the Jordanian Law for Registration of Immoveable Property No. 6 of 1964,[41] as amended by Military Order No. 448.[42] The process of registration under this law is used to register land that has not become registered under the settlement of disputes operations. Any application to carry out such registration must be approved by the officer appointed under Military Order No. 25. Order No. 448 has amended the Jordanian law, giving the Objection Committee the power to hear appeals and making the presence of the Custodian of Absentee and Government Property a requirement. There are reported instances when the signatures of the owners adjoining the land to be registered and that of the mukhtar have been forged and all other information given incorrectly with the result that the small area which has been sold to Jews is registered as several times larger than the area actually sold. There are also reported cases of threats being used as well as deception to entice owners to sign contracts for the sale of their land;

(f) A special department for the registration of transactions in specific lands has been established by virtue of Military Order No. 569.[43] Although the primary purpose for establishing this department is to register the transactions made of what is called State property to Jewish settlers, owners of property which has been requisitioned who wish to sell their property may register the sale with this department.

Legal structures of the settlements

In the first section of the present paper the methods used by the military authorities to acquire land for Jewish settlements have been described. Whatever the methods used, the land is eventually transferred to private individuals or corporate bodies for use in establishing or enlarging Jewish settlements. Often land is acquired by the Jewish agency which then leases it for long terms to private individuals who live in the settlements. Private homes and community facilities are built; roads constructed and the use for which the land is put has all the signs of permanency. A department has been established for the registration of these transactions in land, as has been described above.

The process of the land acquisition is still continuing at the time of writing. On 18 April it came to the knowledge of this author that approximately 10,000 dunums (1 dunum equals 1,000 square metres) belonging to the village of Sourif near Hebron had been declared State land. This is in addition to other such declarations being made in the same period concerning other areas, with the result that a great proportion of all land in the West Bank has already been acquired for the settlements.

This section will deal with the legal structures of the settlements. It will also discuss the regional planning scheme for a large part of the West Bank, which has already been prepared and which determines the planning of the Arab centres and Jewish settlements falling within its area.

It will become clear that methods have been adopted to restrict the development of the Arabs and prevent them from using those areas that have not yet been acquired by the settlers, either because there is already within the settlers possession of more land than they can use, or because legal obstacles stood in the way of their possession. It will then become clear how the Israeli policy towards the West Bank is to acquire as much Arab land for Jewish settlement as is possible and to ensure that the development of the Arabs in those areas that have not been acquired is restricted. In this way the development of the Jewish community in the West Bank will be encouraged and that of the Arab community stagnated and stifled.

Region Jerusalem 5

In the first section the methods used by the military authorities to acquire land in the West Bank have been described. The approximate area of land that has been acquired using these methods is 60 per cent of the total area of the West Bank.

The present section will describe the plans that have been made to ensure that the areas of land that have not yet been acquired will not be capable of development by Arabs.

The discussion will focus mainly on Regional Plan RJ 5 (short for Region Jerusalem 5), avoiding all the area of enlarged Jerusalem and concerning only the West Bank without the enlarged Jerusalem are, because at the time of writing this is the only regional plan that has been completed an published, although it is known that other plans are nearing completion and no doubt what applies to RJ 5 will also characterize the other plans to come.

On the map, the area is divided into several zones, among which are agricultural areas marked with green, areas where building is allowed marked in red, areas for future development (as Higher Town Planning Council will decide) marked with light green, areas that are natural reserves marked in green and surrounded with black lines and areas that are called special lands marked in yellow.

The plan does not affect municipalities, although the boundaries of the municipalities are marked and no development is allowed beyond the boundaries. Some villages are also marked and their development is limited to within the designated borders; others are completely left out. The plan prohibits building in areas designated as agricultural lands. In the category of "special lands", which are not defined, it is left to the discretion of the Higher Town Planning Council to decide their allocation.

The map also shows the Jewish settlements. The areas where building is allowed for Jewish centres are large, as are the areas where no building may now take place, but where it is left to the Council to decide future allocations.

The general effect of the plan is to allow maximum room for the Jewish settlements to develop, while limiting the possibilities for the development of the Arab towns and villages. The future of the development of the area has therefore been determined. The plan puts into effect the policy of developing Jewish settlements and the consequences of this on the Arab population centres, which are denied the opportunity to develop except within the small areas that are designated on the map.

A good case can of course be made for the necessity and desirability of planning. The question is whether planning is according to law and the objectives that the law was designed to fulfill. The Jordanian law for the Planning of Towns and Villages and Buildings, No. 79 of 1966,[44] declares the establishment of several planning boards and provides the manner in which their work must proceed and the considerations and standards they must observe. At the highest level is the Higher Town Planning Council, which includes on it representatives of the Government, the municipalities, the housing corporation, the Attorney General, the engineers, union, etc. This council is given the responsibility of declaring planning zones for the towns, their enlargement and amendment, endorsing regional plans, annulling licences issued contrary to this law, hearing appeals against decisions of the District Planning Commission, etc.

The subordinate authority is the Central Department for the Planning of Towns and Villages, which has the duty of making the physical and social surveys necessary to implement the objectives of town and village planning, preparing regional plans for all districts, providing advice to all local town planning authorities, etc.

Then there is the District, Town, Village and Building Planning Council, which has the duty of approving the detailed planning schemes, hearing objections on regional plans in its area and making recommendations to the Higher Town Planning Council, and hearing appeals of the decisions of the local town planning council.

The duties of the municipal council of the town, the local town planning council, include issuing building licences according to law.

Military Order No. 418[45] of 23 March 1971 transferred the powers of all the above authorities to the Higher Town Planning Council by abolishing some of the lower councils and declaring that the Higher Town Planning Council shall appoint the members of the other remaining authorities. The provisions of the law concerning the constitution of the Council have not been followed and the Council only comprises officers of the Israeli military Government without representation of any of the bodies that the law specifies.

When the 1966 law[44] was passed, many areas in the West Bank had already been declared planning zones according to the laws that were in force before the 1966 law. Article 13 (3) of the law, as amended, provided that any declaration of an area as a planning area made by virtue of previous laws shall be considered as having been made by virtue of this law.

Within the areas declared as planning zones, those areas affected in RJ 5 are included. The British planner Kender had apparently prepared, during the time of the British Mandate, a regional plan for the Jerusalem area - RJ 5 (which was referred to as the Kendel Plan). But it was not completed or subsequently finalized. The plan had not come into effect when the occupation began in 1967. According to article 16 of the 1966 law, the Director of the Central Department for Town and Village Planning had the duty under the law to submit to the Regional Planning Council regional planning schemes within two years from the date of the passing of the order declaring an area to be a planning zone. The two years had not elapsed when the war began. When the occupation began in 1967, there was no regional plan in existence for the area included in RJ 5. The Kendel plan was, according to all concerned, lost, but the area was declared a planning zone. In an affidavit submitted by Mr. Shlomo Khaiat, head of the Regional Town Planning

Committee and a member of the Higher Town Planning Council, in the case of the Society for Teachers' Housing, he stated in paragraph 113 that the Kendel plan (RJ 5) was lost. Later on the authorities claimed that a copy of the plan had been found with an Israeli professor.

Until April 1982, building permits continued to be given by the municipalities within the areas over which they had jurisdiction and the Higher Town Planning Council gave permits for building in all other areas. Although permission was never given to build in areas where Jewish settlements were established or planned, the great limitation placed on the development of the existing Palestinian communities only became clear with the publication of the RJ 5 Regional Planning Scheme.

Article 8 of the Jordanian Planning Law of 1966 imposes on the Minister of Affairs of Municipalities and Village Councils (all of whose powers were transferred by Order No. 418 to the person whom the area commander appointed) the responsibility of ensuring that there is coordination in the use of all lands in Jordan in the interest of the public and in accordance with the region's economic planning. He also has the duty to ensure that the planning of all towns and villages is consistent with the Government's social policy, the development of the society and its progress.

The "person responsible" who has been appointed by the area commander to replace the Minister apparently considers his obligation and that of the Higher Town Planning Council to be to fulfill the Israeli Government's economic and planning policy as far as the Jewish population of the West Bank is concerned. As for the Palestinians who constitute the majority of the population, the only policy is one of ensuring that they are not permitted to develop outside the confines of their towns and villages (when the existence of these has been recognized). Only if this is considered to be the primary objective of the authors of RJ 5 can one understand why it was drawn up in the way that it was.

The existence of the Higher Town Planning Council to serve only the best interests of the Jewish settlers is confirmed by the fact that the main office of the Council, where the plans are drawn up, is now located in the Jewish settlement Maaleh Adumim. Considering the restrictions imposed on a Palestinian's entry into a settlement, the office is practically out of reach for the majority of the population. It should also be noted that the statutory notices of the Council are placed in the English-language Jerusalem Post and the Arabic Al Arba which are published by the Israeli authorities. Both papers have very limited readership among Palestinians.

The other office of the Council is in Ramallah and is where the Arab employees of the Council work. They are employed to execute the bare minimum requirements of the law by which the Council has in theory been concerned to abide.

The Jordanian law of 1966 provides for a number of steps that must be taken before work can begin on preparing a planning scheme. Surveys must be made of the area to investigate the demographic and topographic aspects, the existence of public places, communications, natural resources, etc. The Director of the Central Department for the Planning of Towns and Villages must consult with the district and local planning committees; then for two years after the order declaring an area to be a planning area, a regional plan is prepared.

RJ 5 has been announced not as a new plan made by virtue of article 16 of the 1966 law. It is referred to as an "amendment of the Regional Plan RJ 5". This means that what the Higher Town Planning Council considered to be the case is that the regional plan was already in existence and it only amended it. However, it is clear from article 13 (3) of the 1966 law, as amended, that RJ 5 was not a recognized plan when the occupation took place. And even if it were, there is no power according to the existing law for the Council to amend an already existing plan, unless it is obliged to do so in accordance with the objectives of the law as provided in article 4 (referred to above) for the benefit of the population. If the newly announced amended version of RJ 5 is in fact based on the Kendel plan, then it seems to be the case that the plan of the Mandate times has been used to keep the areas where Palestinians live as they were more than 40 years ago with very slight changes, while the rest of the area has been planned to enable the numerous newly created Jewish settlements to develop to fill up as much of the areas in between as they could possibly handle.

At present the amended regional plan RJ 5 has just been announced and objections are being submitted by those affected. Hundred of people have submitted their objections. Some of those have already been heard. By virtue of Military Order No. 604,[46/] amendment No. 2 to Military Order No. 418, the area commander is empowered to appoint a "special planning council" in a planning area if, inter alia, the planning area does not include the areas of a municipality or village council. The order also empowers the area commander to transfer to this special planning council all the powers of the District Planning Council. This includes the power to hear objections to the regional planning schemes and send its recommendations to the Higher Town Planning Council. It is this special board that now hears objections submitted to RJ 5. The objections are heard by one of the assistants to the legal adviser of the military Government and a senior employee of the Higher Town Planning Council who is known to be among the author of RJ 5. Already the consequences of RJ 5 are being felt by the society. Building licences outside municipal areas have not been issued on the grounds that only after more detailed schemes are prepared could this be done. The Arabs in the few areas left where development is allowed cannot do so until detailed schemes are made. The scheme prohibits anyone from submitting an application to the District Council (replaced by the Special Planning Council) until he proves his ownership of the land through registration or in another manner which the Council deems appropriate, which is not required by law. No building is allowed in an area designated as an agricultural area (the areas with the oblique green lines on the map) except buildings necessary for water and electricity installations or which are specified for agricultural reasons or which are for a guard or for storage. One residence for the farmer is allowed in the area when the area is not less than 1,000 square metres and provided that the residence is not more than 150 square metres. The use of all non-agricultural lands in this green area shall only be as authorized by the Higher Town Planning Council.

On 24 January 1983, Order No. 1043[47] amended the Planning Law to increase the fines payable for building without a licence to twice the value of the building concerned. It also provides for the punishment of any employee of a planning authority or local authority who decides orally or in writing that it is possible to give a licence or who issued or recommended issuance of a licence contrary to a regional planning scheme. The stated sentence is one year' imprisonment or a fine of 100,000 new shekels.

The use to which the lands designated as reserved for future development and those designated as special areas may be put shall be, according to the plan specified by the Higher Town Planning Council. Another area from which many landowners have already been suffering is the large areas which are being expropriated to build roads. Most of these roads are needed to connect the settlements with Israel. They cross the lands of Palestinians who are not allowed to use the land for building in an area of 150 metres on either side from the centre of the road in the case of arterial roads, 100 metres for district roads and 75 metres for main local roads.

Legal structure of the Israeli settlement

The two units of local government possible under Jordanian law are the municipality and village councils. The Jewish settlements in the West Bank are organized as regional and local councils. The regulations which apply to these two structures seem identical to the Israeli regional and local council laws. They have been introduced to the West Bank in the form of regulations passed by virtue of military orders.

The first legislation relating to the organization of settlements was issued on 25 March 1979. Order No. 783[48] provided for the creation in the West Bank of regional councils for "any one of the settlements listed in the appendix to the order which is given the name appearing in the appendix". Article 2 of the order stated that the administration of regional councils would be in accordance with the wishes of the area commander.

The second major legislation on the settlements was Order No. 892 of 1 March 1981 concerning the administration of local councils. The regulations passed both by virtue of Orders No. 783 and No. 892 are published either by posting them on the notice board in the offices of the council, or by publishing them in the collection of the council's regulations. Since Palestinians do not have access to the settlements, the regulations are beyond their reach.

Following is a comparison between the powers and functions of the local councils of the Jewish settlements with those of the Arab municipalities according to Jordanian law.

Functions. The municipal council has power over such areas and functions as roads, buildings, water, electricity, gas, sewage, crafts and industries, health, cleanliness, public places, parks, etc. Some of these powers are similar to the ones given in the local councils. However, the local councils enjoy additional powers. To begin with, a local council acts as the trustee, custodian or representative in any public case involving the inhabitants of the locality.[49] It is also empowered to administer, implement and establish services, projects and institutions that it believes are important for the welfare of the inhabitants living within its area.[50] It is empowered to oversee the development of the locality, the improvement of life within it, and the development of the financial, social and educational affairs of its inhabitants or any sector of them.[51] It can also organize, restrict or prevent the establishment or administration of any service, project, public institution or other organization, craft works or industry of any kind.[52] It is also empowered to oversee irrigation, pastures, the preservation of the soil and any other matter of agricultural significance, provided that it is administered for the benefit of the various farmers within the area of the local council.[53] The council may establish any corporation, cooperative, or other organization for the execution of any of its functions and may buy shares in it. It is empowered to prepare emergency facilities and to operate them at a time of emergency, including the organization of rationing and provision of the necessary services.[54] The council is also empowered to give certificates and to issue licences for any of the matters included within its powers.

According to article 88 of the regulations may be virtue of Order No. 892, the council administering a locality may, with the agreement of the person responsible, make regulations concerning any matter over which the council has jurisdiction. Article 93 stipulates that these regulations shall be considered security legislation issued by the area commander. They shall be posted on the notice board in the offices of the council and in other public places within the locality or in any other way that the council shall decide. Municipal courts, on the other hand, may make regulations only after a decision to this effect is taken by the Council of Ministers with the agreement of the King.

Taxes. A local council may, with the agreement of the person responsible, impose property taxes (arnona), membership fees and other obligatory payments.[54] The council is empowered to impose any additions on the arnona after publishing a notice to this effect in the area of the local council.[55] The council may likewise reduce the tax or fine for lay payment, taking into consideration the financial situation of those on whom it is levied, or for any other reason.[56]

A municipal council, on the other hand may impose taxes on vegetables and fruits for sale in the market, and on other items included within its powers in article 41 of the Municipalities Law. Amounts and percentages are determined in regulations issued by the council with the agreement of the Council of Ministers.[57]

Finances. A municipal council may borrow money only after obtaining the agreement of the Minister of the Interior, who will consider who the lender is and the purpose for which the fund is to be used.[58] It is on the basis of this stipulation that many municipalities in the West Bank are prevented from collecting money contributed to them from Palestinians outside.

Property tax payable to the municipality is collected by the Ministry of Finance. The customs authority collects customs duties on combustible liquids according to percentages specified in the law (article 59). By virtue of article 52, all funds collected for the municipalities by the Ministry of Finance are kept in trust for the municipalities and distributed by the percentage decided upon by the Council of Ministers, on the recommendation of the Minister of the Interior. Criteria for distribution are mentioned in article 52 (2). Some of these funds may be allocated to finance other matters.

The yearly budget for the municipality is acted upon after it is approved by the council and authorized by the Minister of the Interior (article 56).

A local council needs the approval of the person responsible for its yearly budget (article 97 of the regulations). However, it does not need to get approval for borrowing money or for receiving contributions (article 101).

Whereas the accountant who inspects the finances of a municipality is selected by the Council of Ministers, a local council appoints its own accountant. Also, the Minister of the Interior, with the agreement of the Council of Ministers, publishes regulations concerning the proper administration of the municipalities' financial matters; a local council has discretion to administer its own finances without any interference. Regulations are made for the municipalities as to tenders, purchase of material, and all other financial matters; a local council decides these matters without interference except when the sale involves a monopoly or a concession.

Chapter 16 of the regulations mentions powers that the area commander and the person responsible have in special cases. These include interference in the administration of the local council if they see that the council is failing to carry out any of its functions under the regulations or under a security order. In case of an emergency and when there is no possibility for convening the council to take a decision which needs to be made, the person responsible may order the head of the council to act in accordance with the regulations, if he deems that the prompt execution of such action is necessary for the safety of the locality. The area commander may also appoint a new council if it has been proven to him that the council is not carrying out its duties according to the regulations or that there are financial misdealings. But he can do this only after he has warned the council and it did not make heed of his notice.

Defence of the settlements. When considering the powers and functions of a local council, it is necessary to mention a number of related orders dealing with what is called "the defence of villages". These orders are modelled after the Israeli Local Authorities Regulation of Guard Service of Law of 1961.[59] This Law states in its preamble that "the officer in charge of the guard service" is to be appointed by the brigadier in command or a person empowered by him. In instances where the guard service is in the hands of the police, the brigadier in command is to empower the person responsible on behalf of the police for the guard service. "Guard service" is defined as including exercises and any activity that, in the opinion of the officer in charge, is required for protecting the security of the inhabitants of a settlement or their property. "Local authority" is defined as a municipal or local council. Article 2 of the Israeli law states that "the Minister of the Interior may, after consultation with the Minister of Defence, impose, by order, the duty of guard service on the inhabitants of any settlement or settlements".

The military orders in question are not simply modelled on Israeli law. Article 2 of Order No. 432,[60] the first of the orders passed by the West Bank military commander, provides that anyone injured while performing guard service in the settlements shall be considered similarly to someone injured during performance of guard service in accordance with the above-mentioned Israeli law. This direct reference to an application of an Israeli law was one of the first to be made in the military proclamations in force in the West Bank.

Order No. 432 defines a village as a community that was established after 1967. Defence is defined as training or any other activity deemed necessary by the person appointed by the military commander of the West Bank as the officer responsible under the order. The officer is empowered by the order to impose upon every settler the duty to defend the settlement. He is also empowered to appoint an authority to carry out the defence. Order No. 669[61] amends the definition of a resident in Order No. 432 to include "whoever lives in the village and is unregistered as a resident in its registers whether he was from the West Bank or from Israel and who does not carry out guard duty in any other village". The order also sets the age of persons eligible for guard duty as from 18 to 60 and provides that, whenever guard duty is imposed on a person, he shall be presumed to be eligible as long as he has not proved otherwise in a way that shall be provided by order. A fine is imposed on persons who refuse to carry out guard duty. Order No. 817[62] empowers "whoever has been appointed director of guard duty according to Order No. 432" to oblige pupils of any institutions (defined as "a kindergarten, elementary school, junior high school, field school, advanced sports/cultural institution in which education is provided") over 16 years of age, as well as their parents, the principal of the institution, the teachers and the workers, to do guard duty (article 2). In special circumstances the director may order that an institution be guarded by paid police. If the director believes that facilities should be installed in the institution for its protection, he may, with the consent of the police, order the institution's owners to install them.

Order No. 844[63] of 18 June 1980 increases the number of hours per week of guard duty per person to 6 and enables the director to order that the number of hours be increased to 10 per week for a 30-day period. An increase above 10 hours needs the approval of the commander of the area.

A fifth amendment to Order No. 432[64] substantially increased the powers of the settlers. Article 3 of Order No. 898 empowers them: (a) to oblige the person whom the settlers have any reason to suspect of having committed any offence contrary to any military order to show them his identification card; (b) to arrest any person whose identity has not been proved and to transfer him to the nearest police station; and (c) to arrest any person without a warrant: (i) if he commits before them a felony punishable by five years' imprisonment, or if they have reason to believe that he has of late committed a misdemeanor or a felony punishable by the military orders with five years' imprisonment; or (ii) if they saw him in suspicious circumstances taking precautionary measures to disguise himself without being able to give any reasonable explanation for his actions. A person who arrests another in such circumstances must turn him over to the police as soon as possible. Anyone refusing to obey the orders of the settlers will be considered to be contravening the military order on security of 1970.[65] Appended to the order is the format of the card with which the settlers will be issued. The above powers are printed on the card. As with all the other 1,049 military orders in force in the West Bank, the power to interpret the provisions of this order are vested in the military courts.

It has been common practice for settlers to exceed their powers of guard duty and interfere with Arab inhabitants of the West Bank. For example, thee have been many reported instances of settlers setting up roadblocks and searching passers-by. Two members of the Israeli military reserve were quoted in the Israeli English newspaper, The Jerusalem Post, as saying after Jewish student settlers from the local yeshiva and from Kiryat Arba in Hebron had manned the army checkpoints alongside them, "This is the first time and the last time we will serve in this area". The settlers had joined them at the checkpoint because they said that they preferred to defend themselves after the incident in Hebron, where several of them had been killed.

With the promulgation of the orders for the defence of the settlements, the organization of the military territorial defence system of Jewish settlers in the West Bank has been completed.

It is clear, therefore, that the Jewish settlements have a distinctive and separate legal structure from the Palestinians. The Israeli ministries use the councils of the settlements as providers of State services, with the budgetary allocations for such services incorporated in the general budgets of the respective ministries. Although theoretically the powers of the Israeli councils are limited to municipal affairs, "because of the special status of the municipal authorities", explains Moshe Drori[66] "and the fact that they constitute an Israeli 'island' in Judea and Samaria, there is room to consider extending the powers of these local councils so that they may serve as channels through which the Israeli Government authorities can operate".

Drori also writes that "in Judea and Samaria, the determination of the boundaries of the Israeli municipal authorities involves a clear political aspect: within those boundaries, only Israeli authorities will operate, and these areas will be under de facto Israeli control".[67]

There are at present three types of regional councils:[98/] (a) regional councils with "contiguous boundaries: the Jordan Valley and "megillot" (Dead Sea councils). In these areas there are almost no Arab inhabitants and most of the land has been expropriated or declared State land; (b) local councils whose jurisdiction is limited to the planned areas of the urban centres; (c) regional councils with non-contiguous areas encompassing all "uncultivatable" lands. The areas are irregular in shape. It is clearly the case that enough land has been acquired by now to enable hundreds of thousands of Jewish settlers to move into the West Bank. It is also the case that the "legal problems" involved in ensuring that Israeli law applies to settlers in the West Bank, while the area is not de jure annexed to Israel and while the non-Jewish population continues to live under different laws, have all by now been solved. It is also true that the construction of the infrastructure, as well as the physical structure of the settlements, is well underway. The only remaining question as far as the feasibility of Jewish settlement in the West Bank is concerned is whether the required number of Jews will come to live in the settlements. There is no doubt that the Government is providing all possible economic inducements at its disposal to encourage settlement. Whether the people concerned will use their better judgement or not remains to be seen.

As this study is being written reports are coming of thousands of dunums of land being declared State land or acquired for Jewish settlements using one or another of the methods described above (e.g., in January 1983, 35,000 dunums south of the village of Thahvieh were declared State property).

It is clear from the above analysis that the legality of the methods used is questionable. Furthermore, in some cases methods are used to force the cooperation of landowners in the transfer of their lands and in operations, which, even under the changes that have been made to the law in force, are illegal, so that the transactions end up being registered with all the traces of the illegal steps erased from the record.

The land question is at the heart of the Palestinian-Israeli conflict. If all the land is acquired by one side, peaceful resolution of this conflict will be forever frustrated. Most countries of the world do not accept that Israel has any other status in the West Bank except that of an occupier. If the present take-over of Arab lands through "legal" methods continues, the time will soon come when Israel will be able to declare that its hold on the West Bank is not based upon its occupation of the land by force, but upon the fact that it is now the owner of the majority of it. Such a claim will frustrate the efforts of those who hope that a resolution that is fair and just will be reached through negotiations.

If such an eventuality is to be avoided, the appointment of an international body to look into the present status of West Bank land may be necessary before events have moved too far for it to be feasible for such a body to make its investigation and discover the true status and legality of all methods used for the acquisition of Arab lands by Jews.

Notes

1/ See W. W. Harris, Taking Root: Israeli Settlement in the West Bank, the Golan and Gaza-Sinai, 1967-1980 (London, 1980); M. Benvenisti, West Bank Data Base Project 1982.

2/ Settlement of Disputes over Land and Water, Law No. 40 of 1952, Official Gazette, No. 1113, 16 June 1952.

3/ Mandatory Settlement Law - The Land Settlement Ordinance 1928-1933.

4/ Military Order No. 291, Order Concerning Settlement of Disputes over Land and Water.

5/ Ottoman Land Code, 1858.

6/ Law Concerning the Use of Real Property, No. 49 of 1953, Official Gazette, No. 1135, 1 March 1953.

7/ Law to Transfer the Land from Miri to Mulk, No. 41 of 1953, Official Gazette, No. 1134, 16 February 1953.

8/ 1922, Order in Council, Law of Palestine, 1933, vol. III, p. 2569.

9/ State Land Law, No. 14 of 1961, Official Gazette, No. 1541, 1 April 1961.

10/ Law for Administering State Property, No. 32 of 1965, Official Gazette, No. 1863, 1 August 1965.

11/ Law of Land Expropriation for Public Purposes, No. 2 of 1953, Official Gazette, No. 1130, 1 January 1953.

12/ 1935 Emergency Defence Regulations, Palestine, Official Gazette, No. 1130 of 17 March 1935.

13/ Military Order No. 291, Order Concerning Settlement over Land and Water, 19 December 1968.

14/ Military Order No. 59, Order Concerning Government Properties, 31 July 1967, according to which State property is:

1. All property that was on the specified date pertaining to one of the following:

(a) The enemy State;

(b) The judicial body in which the enemy State possessed any right whether directly or indirectly and whether this right referred to control or not.

2. The property that was registered on the specified date in the name of one of the two mentioned above.

3. The property in which two was a partner on the specified date.

4. The property which was on the specified date pertaining to a juridical body of which one of the two mentioned above was a partner, registered as owner or having possession over.

15/ Military Order No. 58, Order Concerning Abandoned Property (Private Property), 23 July 1967.

16/ Military Order No. 25, Order Concerning Transactions in Real Property, 18 June 1967, which makes it illegal to conduct any business transaction involving real property without a permit from the military authorities.

17/ The officer in charge of the judiciary published for Mr. Yusuf Atallah the book entitled The Collection of Land Laws in 1979.

18/ Izat Mohammed Mustafa Dwaikat and Others v. Government of Israel and Others, High Court of Justice 370/79 (1980) 34, P.D. (1) 1.

19/ Military Order No. 364, Order Concerning Government Properties (Amendment No. 4), 29 December 1969.

20/ It should be noted that the decisions of the Objection Committee are no more than recommendations, which are submitted to the area commander, who may accept or refuse them.

21/ Military Order No. 569, Order Concerning the Registration of Special Transactions in Land, 17 December 1974.

22/ Military Order No. 605, Order Concerning the Registration of Special Transactions in Land (Amendment), 24 July 1975.

23/ Don Peretz, Problems of Arab Refugee Compensation, p. 404.

24/ Don Peretz, Israel and the Palestine Arabs, p. 142.

25/ Absentees Property Law No. 20, 5710-1950, L.S.1, vol. 4, p. 68.

26/ Development Authority (Transfer of Property) Law No. 62, 5710-1950, L.S.1, vol. 4.

27/ Military Order No. 58, Order Concerning Abandoned Property (Abandoned Property), 23 July 1967.

28/ Law of Land Expropriation for Public Purposes, No. 2 of 1953, Official Gazette, No. 1130, 1 January 1953.

29/ 1972, High Court case.

30/ Benvenisti, op.cit., p. 25.

31/ Jordan, Official Gazette, No. 1140 of 16 April 1953.

32/ See Walter Lehn, "And the Fund Still Lives", Journal of Palestine Studies, Summer 1978, p. 3-33.

33/ Benvenisti, op.cit., p. 25.

34/ Military Order No. 450, Order Concerning Land Laws, 6 October 1971.

35/ Military Order No. 451, Order Concerning Land Survey, 6 October 1971.

36/ See appointments published on 10 October 1971 on page 1146 of the collection of orders, proclamations and appointments.

37/ Military Order No. 814, Order Concerning Amendments to Immoveable Property Law, 23 November 1979.

38/ Military Order No. 847, Order Concerning Amendments to Immoveable Property Law (Amendment), 1 June 1967.

39/ Military Order No. 1024.

40/ Military Order No. 841, Order Concerning Closing Files, 15 May 1980.

41/ Law for the Registration of Immoveable Property, No. 6 of 1964, Official Gazette.

42/ Military Order No. 448, Order Concerning Registration of Immoveable Property, 26 September 1971.

43/ Military Order No. 569, Order concerning the Registration of Special Transactions in Land, 17 December 1974.

44/ Law for the Planning of Towns and Villages and Construction, No. 79 of 1966, Official Gazette, No. 1952, 25 September 1966.

45/ Military Order No. 418, Order Concerning Town and Village Planning and Construction Law, 23 March 1971.

46/ Military Order No. 604, Order Concerning Town and Village Planning and Construction Law (Amendment 2), 20 July 1975.

47/ Military Order No. 1043, Order Concerning Town and Village Planning and Construction Law (Amendment), 24 January 1983.

48/ Military Order No. 783, Order Concerning the Administration of Regional Councils, 20 March 1979.

49/ Article 68 (3) of the Regulations.

50/ Article 68 (1).

51/ Article 68 (2).

52/ Article 68 (6).

53/ Article 68 (11).

54/ Article 76.

55/ Article 81.

56/ Article 87.

57/ Jordanian Municipalities Law, 1955, article 41.

58/ Jordanian Municipalities Law, article 45.

59/ Local Authorities Regulation of Guard Service Law 1961, L.S.1, 1961, p. 169.

60/ Military Order No. 432, Order Concerning Organization of Guard Duty in the Settlements, 1 June 1971.

61/ Military Order No. 669, Order Concerning Regulation of Village Guards (Amendment), 27 July 1976.

62/ Military Order No. 817, Order Concerning the Protection of Educational Institutions, 21 February 1980.

63/ Military Order No. 844, Order Concerning Arrangements for Guard Duty, 18 June 1980.

64/ Military Order No. 898, Order Concerning Arrangements for Guard Duty (Amendment), 2 March 1981.

65/ Military Order No. 378.

66/ Moshe Drori, "The Israeli settlements in Judea and Samaria: legal aspects", in Judea, Samaria and Gaza: Views on the Present and Future, ed. Daniel Elazar (American Enterprise Institute, Studies in Foreign Policy, Washington, D.C., 1982), p. 66.

67/ Drori, op.cit., p. 64.

68/ Benvenisti, op.cit., p. 37.

C. ISRAEL'S POLICIES AND PRACTICES IN THE ARAB OCCUPIED TERRITORIES IN THE LIGHT OF PREVAILING INTERNATIONAL LAW

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The aggressive war launched by Israel on June 1967 culminated in the military occupation by the Israeli armed forces of certain undisputedly Arab territories, i.e. Sinai, the West Bank, Gaza and the Golan Heights. All peaceful means to restore these territories to the legitimate sovereignties to which they belonged prior to that unlawful occupation have so far failed, save the Sinai Peninsula and a small part of the Golan Heights. Thanks to the now universally exposed, expansionist Zionist policies, Israel still maintains its firm control over the West Bank, Gaza and the remained of the occupied parts of the Golan Heights. Israel furthermore found it convenient, in 1980, to annex officially the Arab part of the Holy City of Jerusalem thus proclaiming the whole city as its "eternal and permanent capital", and by the end of 1981, it declared the applicability of Israeli laws and regulations to the Golan Heights, a mischievous way of factually annexing this integral part of the sovereign Syrian Arab Republic to its domain. Notwithstanding the abhorrence of the whole civilized world, especially through the United Nations, the Israeli authorities lent a deaf ear to the cry of morality and law and arrogantly refused to yield to the voice of wisdom and logic.

On the other hand, in the West Bank and Gaza, the Israeli authorities have persistently and rudely carried out a policy, the aim of which, in the long run, is to prepare these undisputably Arab territories for annexation by creating facts which would, to say the least, make any so-called peaceful negotiation on the future of said territories a negotiation on the future of the Arab "inhabitants" there and not on sovereignty, which the Palestinian people wish to choose freely.

The aim of this short paper is to examine the legality of Israel's behaviour regarding two central questions: the policies and practices of Israel concerning annexation of the occupied territories; and the policies and practices of Israel in the Arab occupied territories.

1. Israel's annexation of Palestinian and other Arab territories

It is a cardinal rule of the international law of armed conflict that occupation does not displace or transfer sovereignty. This rule, which was first heralded by Vattel and later elaborated upon by Heffter in his treaties "Das europäische Völkerrecht der Gegenwart"[1] is now firmly upheld not only by the most highly qualified publicists in the world, but also by international treaties, the most important of which is indeed the constitution of international relations, i.e. the Charter of the United Nations. Oppenheim states that "the authority of the occupant is not sovereignty".[2] Castrén likewise points out that "sovereignty over occupied territories is not transferred to the occupying Power ... occupied territory may not be annexed and any unilateral declarations to this effect are consequently void of legal effect".[3] Stone expresses the same view stating that "an occupant is not legally entitled to annex...",[4] Hans Kelsen is rather clearer on this point when he strongly states that:

> "It is a rule of general international law that by mere occupation of enemy territory in the course of war, the occupied territory does not become territory of the occupying belligerent or - as it is usually formulated - the occupying belligerent does not acquire sovereignty over this territory".[5]

Ironically, even a well-known Israeli authority, Yehuda Z. Blum, presently Permanent Representative of Israel to the United Nations, writes that:

> "Just as annexation of occupied territory by a belligerent occupant is obviously prohibited before the cease-fire or the armistice, it is equally prohibited under the international law after the cease-fire or armistice as long as this remains in force".[6]

It seems, however, that pure political expediency made Prof. Blum contradict his own opinion all the way when he spoke before the Security Council and the General Assembly of the United Nations justifying his Government's annexation of the Golan Heights.[7] What a mockery!

Likewise, the lawlessness of the annexation of an occupied territory by the occupying authority has long since been declared by international tribunals such as the Permanent Court of International Justice.[8] And many celebrated multilateral treaties went further to outlaw the mere infringement upon the territorial integrity of any State:

(a) The Hague Conventions and Declarations of 1899 and 1907;

(b) The Covenant of the League of Nations;

(c) The Geneva Protocol of 1924;

(d) The Kellog-Briand Pact of 1928 (known as the Paris Pact);

(e) The Charter of the United Nations, which pronounced, as one of the principles of the Organizations, to be strictly observed by Member States, that all members should "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the Purposes of the United Nations".

It was certainly in the light of the above-mentioned basic norms that Security Council resolution 242 (1967) of 27 November 1967 emphasized, in its second preambular paragraph the "inadmissibility of acquisition of territory by war". In its first operative paragraph, the Council affirms that the fulfilment of the Charter's principles requires the establishment of a just and lasting peace in the Middle East which should include the withdrawal of Israel's armed forces from territories occupied in the recent conflict. Read as a single document, as it should be according to the well-established rules of interpretation of international legal documents,[9/] resolution 242 (1967) could not have meant but the withdrawal of Israel from occupied territories. The debate of the Council preceding the adoption of that resolution undoubtedly supports this argument.[10/] Be that as it may, resolution 242 (1967), which is legally binding in the light of Article 25 of the charter and the jurisprudence of the International Court of Justice,[11/] could not, in any way, be interpreted so as to allow the aggressor to cultivate the fruits of his aggression, especially by annexing the occupied territories.[12/]

Yet, Israel has done this twice so far, once in Jerusalem[13/] and again in the Golan[14/] despite the fact that by resolution 3314 (XXIX) of 14 December 1974, the General Assembly unanimously declared annexation of other territories as an act of aggression against which Chapter VII of the Charter should be invoked. Moreover, individuals committing such aggressions are considered to have committed a crime against peace to which the principles of Nuremberg and Tokyo apply.[15/]

I, therefore, consider that Security Council resolutions 478 (1980) and 497 (1981) and General Assembly resolutions 226/36 A and B of 17 December 1981 and ES-9/1 of 5 February 1982 are of a declaratory character in as far as the admissibility of the annexation of territories as a consequence of military occupation is a well-established principle of international law. With this, all States in the world concur except one: Israel, whose history in breaching the rules of international law is a phenomenon in contemporary international relations.

It follows, therefore, that:

(a) The annexation of Jerusalem and the Golan Heights to use the term of the competent United Nations organs are "null and void and without international legal effect";

(b) All Palestinian and other Arab territories presently under Israeli occupation are subject to the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949.

Furthermore, all other States Members of the United Nations should conduct their relations with Israel in accordance with the above-stated two conclusions, i.e. they should in no way (de facto or de jure) recognize "the change of title" for the Golan or Jerusalem. Otherwise, they could be held responsible for violating a well-founded principle of international law according to which no recognition could be extended to a forcible acquisition of territory (The Stimson Doctrine).[16/] "Ex injuria jus non oritur".

2. The policies and practices of Israel in the Arab occupied territories

It took the whole of the nineteenth century to develop the rules of international law regulating occupation. They are now universally recognized and in many respects have been enacted in articles 42 to 56 of the Hague Conventions and Declarations. They were supplemented and expanded in the Fourth Geneva Convention of 1949 relating to the Protection of the Civilian Population in Time of War. And still another supplementary document, the First Geneva Protocol, was enacted in 1977. All parties involved in the Arab-Israeli armed conflict are signatories to the Geneva Convention: (Syria 4 May 1954, Jordan 29 November 1951, Lebanon 10 October 1951 and Israel 6 June 1952).[17/]

The central question at this juncture is how far and to what extent has Israel, as an occupying Power and not merely as an invader,[18] abided by the Geneva Convention, especially in recent time.

The clauses of the Convention pertinent to the question at hand are as follows:

"Article 1

"The high contracting parties undertake to respect and to ensure respect for the present Convention in all circumstances.

"Article 2

"... the Convention shall also apply to all cases of partial or total occupation of the territory of a high contracting party even if the said occupation meets with no armed resistance.

"Article 4

"... persons protected by the Convention are those who, at a given moment, and in manner whatsoever, find themselves in case of a conflict or occupation in the hands of a Party to the conflict or occupying Power of which they are not nationals.

"Article 6

"... The present Convention shall apply from the outset of any conflict or occupation mentioned in article 2."[19]

The essence of the Geneva Convention in question is to determine clearly the rights and obligations of the occupying Power vis-à-vis the civilian inhabitants of an occupied territory.[20] Articles 47 and 48 of the Convention are of relevance in this connection.

Israel has consistently and insolently taken the position that "The Fourth Geneva Convention is not applicable to the Israeli occupation of the West Bank and Gaza," showing particular concern regarding a clause in article 49 which prohibits the occupying Power from taking measures to transfer parts of its own civilian population into the territory it occupies.[21] The Committee on the Exercise of the Inalienable Rights of the Palestinian People published an invaluable paper in 1979 entitled "The question of the observance of the Fourth Geneva Convention of 1949 in Gaza and the West Bank, including Jerusalem, occupied by Israel in June 1967". It is enough, here, to refer to this paper as it contains all arguments[22] and facts concerning the non-observance by Israel of this Convention and a resumé of the voluminous condemnation of Israeli misconduct in this respect by the various organs of the United Nations, the Red Cross and even some Israelis.

What should merit our special attention at present, since we are to focus on the policies and practices of Israel in Palestinian and other Arab territories in the light of recent events in the region, is the escalation by the Israeli occupant of its annexationist policies through land expropriations, colonial settlements and the campaign of terror against the Palestinian people. Let it be noted that by placing special emphasis on the foregoing policy, we in no way attempt to lessen the significance of other unlawful Israeli policies and practices examined in the United Nations paper referred to above. It is, I believe, just because the final usurpation of the West Bank and Gaza is the ultimate goal of the Israeli authorities that I am prompted to consider it the central issue.

Contrary to articles 47 and 49 (b) of the Convention and notwithstanding world-wide condemnation, Israel does not conceal its attention to annex the West Bank and Gaza by all factual means in order to face the world with a fait accompli with which any Arab negotiator, the United Nations and the whole world would have to live.

Israel is steadily, surely and audaciously continuing its policy of establishing more and more colonial settlements in the West Bank according to what is known as the "Master Plan for the Development of Settlement in the Judea and Samaria 1979-1983", prepared by the World Zionist Organization. The first principle of this plan states "Settlement throughout the entire land of Israel is for security and by right".[23] The plan envisages the settlement of 27,000 families (over 100,000 persons) by both establishing new settlements and "thickening of existing settlements on the West Bank". Aside from the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories up to 1979, BBC television recently broadcasted a documentary programme entitled "People without a land" in which many high-ranking Israeli officials were interviewed. The essence of their statements could be summarized in two main points:

(a) The transfer of the whole West Bank to become an integral part of Israel is the main goal of the Israeli Government;

(b) The presence of Arab inhabitants is undesirable. They may stay under Israeli sovereignty or they may leave. The second choice was the preference of those Israeli officials.

On the other hand, Arab populations interviewed in the programme indicated strong willingness to defend their land or die on it.

Thus, a direct and, most likely, bloody confrontation will probably now ensue between the Arab Palestinian residents of the West Bank supposedly protected by international law, and a ruthless aggressive expansionist occupant quite determined to turn them into a people without a land.

In light of this painful, yet true, phenomenon, many recent Israeli practices can be well understood. The following observations should not be overlooked:

(a) It was not a mere coincidence that the inalienable right of the Palestinian people, systematically upheld by the various organs of the United Nations since 1970, especially their very right to self-determination, was in the Camp David "Framework for peace in the Middle East" minimized to the mere right of the inhabitants of the West Bank and Gaza to "autonomy". The term autonomy, ambiguous as it may be, is far less so than "independence" or even "self-government" according to prevailing international law.[25/] Autonomy, especially as foreseen by the Camp David accords, (however illegal those accords may be according to the Law of Treaties)[26/] cannot legally be interpreted to mean self-determination, which in its simplified form means the right of a people to choose the sovereignty to which they wish to belong and the form of government which they freely wish to have, politically, economically, socially and otherwise.[27/] On the contrary, in the Camp David accords, the will of the population of the West Bank and Gaza is subject to the Israelis' decision alone. A closer and objective reading of those accords and the exchange of letters annexed thereto makes any further elaboration unnecessary;

(b) It was not a sheer coincidence that Israel obstructed negotiations on the implementation of the future of the West Bank and Gaza in as much as Israel had not yet fulfilled its real objective, i.e. to Judaize the said area before confronting the Arab side and the world with the fact that the West Bank and Gaza had become factually part and parcel of Israeli territory. In the light of this purpose, we may understand the replacement of the military commander in the Bank by a civilian authority, which is against the international law of armed conflict;[28/]

(c) It was very meaningful to appoint Ariel Sharon, former Minister of Defence and a war criminal, according to the Nuremburg and Tokyo principles, as the Minister responsible for settlement in the West Bank. He will undoubtedly accomplish, through terror and horror, what he did in Lebanon (e.g. Sabra and Shatila);

(d) It should be stressed that the ruthless Israeli campaign to expropriate more and more Arab land in the West Bank has been increased and intensified. Thanks to objective press media, the facts of this unholy campaign have reached every home in the world. There is, thus, no excuse for any peace-loving humanitarian official to claim lack of information or ignorance of facts;

(e) The campaign of terror against Arab civilians in the West Bank has become a daily headline in the news. This terror includes, inter alia, repression, administrative detention, destruction of homes, collective punishment, intoxication by gas and drinking water, biological experiments and above all premeditated attacks on the holy shrines of Muslim and Christian Arabs. The Aqsa Mosque has recently become an open target for gangs sponsored by the Israeli Government. One of the latest reports reaching the consulates of many Western States in Jerusalem affirmed that certain Israeli groups, in full collaboration with the Likud, are conspiring for sabotage and blood baths in the West Bank, particularly in Jerusalem, with the purpose of driving civilians to Jordan.[29/] According to these reports, a Zionist foundation has been instituted in New York with branches in many other American States. The main theme of this foundation is "Palestine means Jordan". The said foundation is financially sponsored by Zionists and Israeli sources to publish advertisements and articles in the main newspapers warning the Arab people in the West Bank to leave for Jordan before it is too late. This practice is the exact implementation of what Rabbi Meir Kahane wrote in his book Let Them Go.

It follows, then that, unless stopped, somehow, Israel will not be satisfied before it consolidates an effective and forceful Jewish presence in the Bank which would make any so-called negotiation on its future meaningless. My fear is that when the time matures in its favour, Israel will be willing to negotiate, but on a single point, i.e. how to dispose of the "inhabitants" of the remainder of Palestine! No more nor less. It is doing so in flagrant violation of all principles of international law and of the call of the international community. Mention should be made here of the fact that, while this paper was under preparation, Israel challenged the Security Council again, when it rudely refused to abide by the Council's decision of 4 April 1983 to investigate the mysterious poisoning of over 1,000 young Arab women in the West Bank in one week.

On the other hand, let it be recalled that the Security Council, in its resolution 497 (1981), instructed Israel to continue the observance, in the Golan Heights, of all provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, but that Israel refused to obey this mandatory directive, just as it refused to comply with General Assembly resolution ES-9/1 of 5 February 1982.

Thus, the Permanent Representative of Syria to the United Nations, in a series of complaints, addressed the world Organization on the agony of the Syrian nationals in the Golan, pursuant to the Israeli decision to annex the Heights. The Israeli breaches of the Fourth Geneva Convention of 1949 may be categorized, inter alia, as follows:

(a) Repression of civilians who staged a peaceful strike against annexation;

(b) Collective arrest and detention of civilians;

(c) Demolition of houses and sealing of stores;

(d) Confiscation of more Syrian land for the establishment of more colonial settlements;

(e) Prevention of civilians from completing the irrigation of their agricultural projects;

(f) Prevention of civilian farmers from marketing their crops;

(g) Imposition of continuous curfew;

(h) Replacement of the Syrian educational curriculum by that of the occupying Power;

(i) Imposition of high Israeli taxes and duties on Syrian civilians in the Heights;

(j) Prohibition of leaders in the Golan from meeting with the representatives of international organizations, etc.

Ambassador Fattal quoted the Israeli Communication Minister as saying that "The Golan Heights is ours and anyone who regards himself a Syrian should be allowed, in a democratic fashion, to move to Syria (The New York Times, 18 February 1982). Again, on 3 March 1982, Ambassador Fattal addressed the Secretary-General about the continuation of the above-mentioned breaches in addition to a new set of violations, the meaning of which is that despite the mandatory power of Security Council resolution 497 (1981) and the basic rule of international law against annexation, Israel was acting in the Golan as if it had become a part of its territory, and a second class part too.[30/]

So, Israeli defiance was brought once more before the Commission on Human Rights at its 38th session, in 1982. Ambassador Daoudi of Syria presented the Commission with abundant examples of the ceaseless illegal policies and practices of Israel in Arab occupied territories, including the Golan, and indicated facts and figures that Israel had persistently and presumptuously refused to observe the Geneva Convention of 1949 on the Golan as an occupied territory. The Commission, having heard all points of view, adopted its resolution 1/1982 concerning the Israeli breaches of human rights in the Arab occupied territories, including Palestine, and resolution 2/1982 on the Israeli breaches of human rights in the Golan. In the latter resolution, the Commission recalled General Assembly resolution 3314 (XXIV) of 14 December 1974 on the meaning of aggression (which includes annexation of territories), Security Council resolution 497 (1981) of 17 December 1981 on the illegality of the imposition of Israeli laws on the Golan (considering that such imposition as null and void), the Commission's own resolution 1 (XXXVII) of 11 December 1981 whereby the Commission strongly condemned Israeli policies and practices in occupied territories, including annexation of those territories and General Assembly resolution 36/226 B of 17 December 1981. It went on to condemn strongly the Israeli decision of 14 December 1981 annexing the Golan by imposing its laws, legislation and administration on that part of Syrian soil. The Commission reiterated the position of all organs of the United Nations and specialized agencies that the annexation was null and void and without legal effect and that the persistence of Israel in its policies and practices endangered international peace and security. Further, the Commission called on all Member States to apply the measures indicated in paragraphs 11 to 13 and 15 of General Assembly resolution ES-9/1. By resolution 1/1982, referred to above, the Commission, in a near unanimous vote, insisted that the Fourth Geneva Convention of 1949 should apply to all Arab occupied territories. The United States delegate was the only one who cast a negative vote, and no wonder![31/]

3. Conclusion

To say that the policies and practices of the Israeli occupant in Palestinian and other Arab territories have not recently worsened to a totally unacceptable degree according to any moral or legal standard would be the understatement of the decade. Such policies and practices not only run contrary to universal ethics, but flagrantly breach the most fundamental principles of international law, both customary and conventional. The various political organs of the United Nations have, so far, given the Palestinian people voluminous resolutions and decisions acknowledging their inalienable rights, including their sacred right to self-determination. They have also deplored and condemned Israel's behaviour toward Arab States (e.g. Syria) and the most certainly illegal annexation of the Golan Heights. But is this all that the United Nations can do? In other words, what is the real value of all the United Nations resolutions recognizing the inalienable rights of the Palestinian people against the bitter fact that Israel is about to dispose of the remainder of the territory of Palestine in toto? How effective, in reality, are the Security Council decisions and the General Assembly resolutions?

Notes

1/ L.F.L. Oppenheim, International Law: A Treatise, 7th ed., H. Lauterpacht, ed. (1960), pp. 432-433.

2/ Oppenheim, op.cit., p. 439.

3/ Castrén, The Present Law of War and Neutrality (1954), pp. 215-216.

4/ J. Stone, Legal Controls of International Conflict, rev. ed. (1959), p. 720.

5/ H. Kelsen, Principles of International Law, 2nd ed. (1967), p. 139. See, to the same effect, Glahn, The Occupation of Enemy Territory (1957), p. 274 and L. Fenwick, International Law, 3rd ed. (1948), p. 149.

6/ Yehuda Blum, "The missing reversioner: reflection on the status of Judea and Samaria", The Arab-Israeli Conflict, John Norton Moor, ed., vol. II (1974), p. 299.

7/ Security Council document S/14796.

8/ The Permanent Court of International Justice repeatedly held that a unilateral act which is not in accordance with law cannot confer upon a State a legal right. See the Order of 6 December 1930 in "The Case of Free Zones of Upper Savoy and the District of Gex (2nd phase)". Cited together with similar cases by Oppenheim, op.cit., p. 142.

9/ See for guidance article 31 of the Vienna Convention on the Law of Treaties of 1969.

10/ The Arab-Israeli Conflict, vol. III, p. 1008 et seq.

11/ ICJ Reports 1971, p. 16. The Court held that all resolutions of the Security Council were mandatory within the terms of the Charter. See also Brownlie, Principles of Public International Law, 3rd ed. (1979), p. 515.

12/ This is an argument used at times by certain partisan writers such as S. Schwebel, "The Middle East: prospects for peace", The Arab-Israeli Conflict, p. 133 et seq.

13/ See Security Council resolutions 252 (1968), 267 (1969), 271 (1969), 298 (1971), 465 (1980) and 478 (1980). With regard to Jerusalem, annexation was effected gradually.

14/ Security Council resolution 497 (1981).

15/ Articles 11 and 25 of the First Geneva Protocol (1979), M. A. Shukri, History and Nature of International Humanitarian Law, a paper presented to the First Arabic Middle East Seminar on International Humanitarian Law, held at Amman from 5 to 13 April 1981 (see the final report of the Seminar, p. 39 et seq.

16/ Professor Fenwick writes "Ethiopia was annexed by Italy in 1936, but in this case the annexation, being in violation of the Stimson Doctrine and the principle announced by the Assembly of the League of Nations, was not recognized by other States" (op.cit., p. 150). The Stimson Doctrine becomes pertinent for those few States, however, which transferred their embassies in Israel to Jerusalem. It must not be forgotten that above cited Security Council resolutions are "erga omnes".

17/ Study by the Committee on the Exercise of the Inalienable Rights of the Palestinian People, "The question of the observance of the Fourth Geneva Convention of 1949 in Gaza and the West Bank, including Jerusalem, occupied by Israel in June 1967 (1979), p. 3.

18/ For the differences between invasion and occupation, see Oppenheim, op.cit., p. 430 et seq., and Van Ghahn, chap. 31, p. 664 et seq.

19/ "The question of the observance of the Fourth Geneva Convention of 1949 in Gaza and the West Bank, including Jerusalem, occupied by Israel in June 1967 (1979)".

20/ Oppenheim and Van Ghahn, op.cit.

21/ "The question of the observance of the Fourth Geneva Convention of 1949 in Gaza and the West Bank, including Jerusalem, occupied by Israel in June 1967 (1979)".

22/ The argument of Yehuda Blum (Israel) and Shebel (United States) for Israel, on pp. 5 and 6 of the document cited in note 17, and that of Professor Mallison (United States), who correctly refuted the Zionist point of view (p. 7) are rather intriguing. I may add, however, that the Israeli position in general is baseless on any legal grounds. Legally, Israel cannot simply base its title to "sovereignty" on the so-called historic rights of the Jewish people. Israel owes its existence as an entity to General Assembly resolution 181 (II) of 29 November 1947. So neither Gaza nor the West Bank was allocated to the Jewish State. In fact the whole of Palestine was unlawfully partitioned to allow Israel to come into being within the border defined by that resolution, which means that according to the United Nations itself, the remainder of Palestine was left for the Palestinian people, who were uprooted and displaced by Israel itself and consequently prevented from exercising their right to self-determination, including forming their own State, but who are now legally represented by the Palestine Liberation Organization and the claim of Israel for "Eretz Yisrael" is legally a fallacy. On the other hand, the position taken by the Israeli Supreme Court is bewildering indeed. The fact that the Geneva Conventions of 1949 were not deemed admissible because they had not been promulgated by municipal legislation runs contrary to the Law of Treaties (article 27). Thus the Israeli Government's legal argument is self-contradictory to say the least.

23/ "The question of the observance of the Fourth Geneva Convention of 1949 in Gaza and the West Bank, including Jerusalem, occupied by Israel in June 1967 (1979)", p. 19.

24/ M. A. Shukri, Palestine and Self-Determination, a paper presented to Colloque Palestine at Brussels, 1976.

25/ M. A. Shukri, The Concept of Self-Determination in the United Nations, a doctoral thesis, (Dar El Fikr, Damascus, Syria, 1965), p. 71 et seq. and Chapters XI and XII of the Charter of the United Nations.

26/ It is illegal in so far as the Palestinian people are concerned since it created rights and obligations to a third party, contrary to articles 34 and 35 of the Vienna Convention on The Law of Treaties without their consent.

27/ See article I of the two international covenants on human rights of 1966, and Shukri, op.cit., p. 239 ff.

28/ This is illegal according to international law. Oppenheim (op.cit.) writes "The administration of the occupant is in no wise to be compared with ordinary administration for it is distinctly and precisely military administration", p. 437.

29/ The daily Al-Qabas, Kuwait, No. 3906, pp. 1 and 24, 29 March 1983.

30/ For the many Syrian complaints concerning Israeli breaches of the Geneva Convention of 1949, see United Nations documents A/36/850-S/14808, A/37/106-S/14893 and A/37/192-S/14876.

31/ Ministry of Foreign Affairs of the Syrian Arab Republic, "A report on the work of the Commission on Human Rights on its thirty-eighth session" (1982).

D. AL-QUDS: A HOLY CITY WITHOUT A STATUS

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Unquestionably, the existence of Israel cannot fail to appear to an impartial observer who has sufficiently distanced himself from the heat of the events as the result of a series of disasters the tragic consequences of which have been borne by the Arabs in general and by the Palestinian people first and foremost. It is equally certain that the existence of Israel will appear also as the product of a series of legal frauds for which the United Nations and the international community will be paying for a long time. From the League of Nations Mandate, which incorporated the essential features of the Balfour Declaration, to the forces of the United Nations Interim Force in Lebanon (UNIFIL), defied and humiliated - to say the least - during the invasion of Lebanon, the denial of justice to the Palestinian people has been systematically accompanied by a challenge launched on a permanent basis to international law and a constant violation of its least controversial principles. Nothing illustrates better this constant of the international attitude, tragically impotent and itself caught in numerous contradictions, than the current situation of Jerusalem, a city "without a status".

More than any other place in the world, Jerusalem presents a challenge to the universal conscience. But what are we doing about it and what can we do? The minimum is to endeavour to accord it a de facto position in accordance with the right of peoples to self-determination and with the eminence conferred on it by the three monotheistic religions. For once, the United Nations, Judaism, Christianity and Islam converge at a deep level. The question can be cleared up and the confusions and intricacies of the current situation straightened out only by positing that the status of Jerusalem derives not only from religious awareness and sacred symbolism but is also historical, legal and political. Thus, only a sense of justice and all that can satisfy it can restore to the Holy City a status worthy of all that it has symbolized and still symbolizes for man.

It is an understatement to say of Jerusalem that it belongs to all mankind. By the place which it occupies in the symbolism of the three revealed religions, by the affective and mythical resonances which it evokes, by the weight of the real or imaginary past, it belongs not only to all believers, Jews, Christians or Moslems, but even to agnostics. Jerusalem is the earthly round city: it is the celestial four square city; it is heaven on earth, it is earth in heaven. It is the archetype par excellence beyond all our experiences and this side of any revelations. Is it necessary to recall its history that is inseparable from Genesis? At all events, the site was mentioned as early as the second millenium before Christ. That makes it one of the earliest places to be exalted by mankind. However, it was David who, in the tenth century before Christ, made it the capital of his kingdom. Solomon built the Temple of the Lord Nebuchadnezzar, the Temple had been regularly rebuilt before Antichius Epiphanes made it a bridgehead of triumphant paganism. Jerusalem had to stand up to Rome. As elsewhere, favouring radical solutions, the Romans razed the City. The Temple disappeared definitively, and the Jewish city ceased to exist in 132 A.D., after the failure of the revolt of Simeon Bar Kokhba. The Colonia Aelia Capitolina was built on the site, and access to it was, moreover, forbidden to Jews.

After Judaism and the pagan interlude came Christianity, for which Jerusalem was one of the birthplaces and, in any event, the scene of many "crucial" events: the passion, the crucifixion, the resurrection ... for Christians, the celestial City is more than a sacred area or a place of pilgrimage; it is the witness to the suffering of the Son; it has lived the mystery of the incarnation of the Father; it bears the eternal mark of the manifestation of the Holy Ghost. It is the symbol of peace, justice and union. It is the promise of the Messianic Kingdom. It is the Mother Church open to all the peoples of the earth. It is even, in the words of the Book of Revelation (21/23), the place sent by God.

> "And I ... saw the holy city, new Jerusalem, coming down from God out of heaven ... And I heard a great voice out of heaven saying, Behold the tabernacle of God is with men, and he will dwell with them, and they shall be his people, and God himself shall be with them, and be their God. And God shall wipe away all tears from their eyes; and there shall be no more death, neither sorrow, nor crying, neither shall there be any more pain: for the former things are passed away".

More than a symbol, Jerusalem bears witness to man's faith in his own future. Constantine, by building the first Basilica of the Holy Sepulchre and, by inaugurating a new and Christian era for the City, set up new and lasting symbols.

Islam further strengthened this sacred character of the City and was to preserve it with the utmost care up to the present. The first easterly focus of prayer, the royal path chosen for the ascension and for the entry into heaven of the Prophet Muhammad, Jerusalem ranks as one of the three Holy Cities of Islam. The Al-Aqsa mosque is the subject of a Koranic revelation and a "divine blessing extending round about" (The Koran, chapter XVII, verse 1). Thus, as early as 637, while Jerusalem continued to belong to the other revealed religions, Islam assumed responsibility for it. It made it the common heritage of the children of Abraham. Apart from the brief occupation by Frederick II - between 1229 and 1240 - it was to remain under Islamic control until the 1967 war. It was the Arabs who gave it the form and configuration that we still know today. The Umayyad Caliph Abd-al-Malik built the Dome of the Rock and the Mosque of Umar there; it was he and his successor, Al-Walid, who built, on the very precinct of the former temple, the Al-Aqsa Mosque. There was no Muslim sovereign who did not pay court to the City and bring it tribute. All made it a point of honour to embellish it and, if possible, to sanctify it further. They vied in dedicating ramparts, monumental gates, citadels, madrasas, caravanserais and public fountains to the monotheistic religions. After eight centuries of Jewish presence, three centuries of Roman paganism and four centuries of Christianity, Jerusalem came under the protection of Islam for 14 centuries. The secret of this permanent presence of the sacred lies in the spirit of tolerance with which Islam made Jerusalem accessible to the three monotheistic religions. The covenant of Umar, guaranteeing the Jews and the Christians freedom of worship, remains a rare model for the epoch - and even today - of an international text whose scope, intention and effect have, throughout the ages, been protection of freedom both of religious protection and of ritualistic practice.

Islam did this - and kept its promise - not for tactical reasons or calculation but because of the very essence of the message - ecumenical from the outset - of which it was the bearer. For Islam, there could not be several divergent and true religions. The unity of God is echoed at the level of the unity of the faiths, which, in turn, is reflected in the union of those who are the bearers of the same truth. The Koranic revelation is but a reprise of the very basis of Judaism and Christianity. Muhammad, far from renouncing Jesus, Moses, David, Solomon, Abraham and whole line of the Prophets of the Bible and the Gospels, takes the stand of one who continues and restores. Islam is the culmination of all revelations. It is the sum and the summit of all revelations. As such, it appreciates rightly the portion of truth borne, in the Jewish and Christian religions, by the beliefs, the believers, their relics and their monuments. The sacred is an absolute which admits of no exclusivity. Jerusalem, therefore, has remained throughout the centuries, from the seventh century to the present, a living and effective symbol of Islamic ecumenism. Free access to the Holy Sepulchre and the Wailing Wall has never - except perhaps in times of local or generalized unrest or war- suffered any lasting restriction. In all logical rigour, Islam has furnished proofs, unique in their kind, or tolerance towards others.

Thus, it is not the sacred aspect which raises problems, and the religious status of Jerusalem is clear: all religions participate by right. The problem of Jerusalem is, in fact, a national problem. It results from a blocked decolonization and is indissociable from the emergence of a modern nation in the very heart of an environment full of meaning and a vehicle of the sacred. Palestinian nationalism began to manifest itself on the eve of the First World War, as one component among others of the differentiation of the Ottoman Empire which was disintegrating rapidly into nations in the modern sense of the world. At that time, the Bilad-al-Sham comprised many administrative subdivisions, from which Jordan, Syria, Lebanon and Palestine proper were to emerge. The latter was formed, roughly speaking, of three sanjaks. One of these, Jerusalem, enjoyed a special status by reason, precisely, of the ecumenism that we have mentioned. Governed directly from the Sublime Porte, moreover, it sent its own delegates there. The sanjaks of Balqa and Acre, belonging to the vilayet of Beirut, made up, roughly speaking, the rest of Palestine.

However, whereas all the peoples of the region were shortly to be called upon to form nations, the Palestinians saw their future mortgaged, their aspirations shattered and their history diverted because of the intervention of factors that were totally alien not only to themselves but also to the region as a whole. These factors were the Balfour Declaration and the Hitlerian genocide perpetrated under the conditions which all know in Europe against the innocent Jewish people.

However, in 1917, the Palestinian people, on the same footing as the other peoples of the Ottoman Empire, already possessed the two principal attributes of a nation as accepted in international practice and law: a people established for centuries on a well-defined territory. Moreover, these two attributes were, in the unanimous opinion of observers, much more patent and obvious than in the case of many other States which have emerged since. The Palestinian nation, while it had not, to be sure, become fully conscious of itself - but that was also the case of Jordan or Saudi Arabia - formed a part, just as much as the others, of those entities which the League of Nations recognized as communities whose "existence as independent nations can be provisionally recognized". The Covenant of the League of Nations - in flagrant contradiction with itself and in order to take account of the Balfour Declaration - stipulated that the mandatory Power should provide for an administrative framework designed to facilitate transition to full independence, while facilitating the establishment of a "Jewish national home".

It would be impossible to be less serious or more pharisaical. On the one hand, consultation with the indigenous people of Palestine on a policy involving its very existence is neglected, and, on the other hand, most important, two nations, the one rooted in the soil and in the history and the other to be assembled from the rest of the world, but mainly from Europe, are cynically invited to fight over the same tiny territory. The latter, highly foreseeable failures, whether of the mandatory Power or of the League of Nations or the United Nations, far from "facilitating" anything, were to bring both of the two nations invited to settle in Palestine to an impasse. The international community, when called upon to resolve such difficult questions arising from these aberrant political choices, could only advocate false compromises in the guise of partitions unacceptable to both and painful transfers of persons. That natural incapacity, which is written in the very order of things, to organize the situation on he spot rationally, must leave, ultimately, no other ways than that of force. And we know what that did to Deir Yassin and to Sabra and Shatila.

Thus, the status of Jerusalem cannot be dissociated from that overall situation prevailing in Palestine, which both from the political viewpoint and from the viewpoint of the situation on the spot, is daily becoming more complicated.

However, from the legal viewpoint, nothing has happened to effect a transfer of sovereignty, neither the Mandate, article 5 or which explicitly prohibits any alienation, nor the United Nations partition plan, which has remained a dead letter. On the contrary, the General Assembly, since 1969 and by an overwhelming majority, has recognized and reaffirmed in a manner which allows of no ambiguity "the inalienable rights of the Palestinian people". Year after year, the General Assembly constantly reaffirms its wish to allow the Palestinian people effectively to enjoy the right of self-determination. This right is and remains imprescriptible, and nothing could render this fundamental principle of jus cogens obsolete.

It is obvious that this right of self-determination includes the population of Jerusalem itself as composed before the British Mandate.

The study prepared by W.T. and S.V. Mallison, at the request of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (ST/SG/SER.F/4, pp. 49-54) analyses objectively and precisely the legal status of Jerusalem as the various resolutions of the United Nations have sought to determine it. The authors demonstrate its ambiguous character. At the time of the 1947 partition, the United Nations sketched the outlines of a special status. However, it seems to have resigned itself since to the de facto partition imposed by armed forces by Israel in 1949.

General Assembly resolution 303 (IV) of 9 December 1949 reaffirmed, in paragraph 1 the intention of the United Nations:

> "... that Jerusalem should be placed under a permanent international regime, which should envisage appropriate guarantees for the protection of the Holy Places, both within and outside Jerusalem, and to confirm specifically the following provisions of General Assembly resolution 191 (II): (1) the City of Jerusalem shall be established as a corpus separatum under a special international regime and shall be administered by the United Nations, (2) the Trusteeship Council shall be designated to discharge the responsibilities of the Administering Authority ..., and (3) the City of Jerusalem shall include the present municipality of Jerusalem plus the surrounding villages and towns, ...".

Those provisions were to remain a dead letter, and the United Nations would - to our knowledge - revert to the question only on the occasion of the measures taken by Israel following the annexation of Jerusalem in 1967. Resolutions 2253 (ES-V) and 2254 (ES-V) of the General Assembly of the United Nations call upon Israel to rescind all the measures which it had taken to alter "the status of Jerusalem". But it is not really known what status is meant. Is it the status prevailing before the 1947 partition or that which the United Nations itself dreamed of and which would establish Jerusalem as a corpus separatum or, again, that which existed de facto when Jerusalem was partly under Jordanian control and partly under Israeli control? We can only share the view of Mr. and Mrs. Mallison, who denounce the lack of clarity in the resolutions adopted after 1967 by the General Assembly and the Security Council. The two jurists ask whether it is a question of "the legal status of the corpus separatum ... or the factual status of the pre-June 1967 divided City. However, in examining the Security Council resolutions along with those of the General Assembly it appears that there is, at the least, an implicit intent to preserve the principle of the corpus separatum even though these resolutions, following the intense hostilities of June 1967, put special emphasis upon the post-1967 Israeli actions".

It emerges from all this analysis that Jerusalem has really no status and that the various forms of control exercised in the course of the last 65 years are but the successive products of on-the-spot situations which relate only distantly to the right of peoples to self-determination and the principles of the Charter of the United Nations.

In a remarkable document, "Cisjordan and the rule of law", the International Commission of Jurists sums up the situation by saying that, with regard to the status of the West Bank of Jordan (including East Jerusalem), the United Nations, supported by a majority of countries, regards this region as an occupied territory and the State of Israel as an officially belligerent occupier; the majority of the countries of the world adopt the same position. They all want cessation of the occupation and the retreat of the Israeli forces.

The United Nations, taking cognizance of the emergence of the Palestinian nation, now recognizes it formally and explicitly. It constantly and vigourously reaffirms its inalienable rights to self-determination and resolutely stresses the inadmissable character of the acquisition of territories by force. More specifically, on 10 December 1981, the General Assembly:

> "Demands that Israel should withdraw completely and unconditionally from all the Palestinian and other Arab territories occupied since June 1967, including Jerusalem ...
>
> "Further demands that Israel should fully comply with all the resolutions of the United Nations relevant to the historic character of the Holy City of Jerusalem, in particular Security Council resolutions 476 (1980) of 30 June 1980 and 478 (1980) of 20 August 1980, and rejects the enactment of a " 'Basic Law' by the Israel Knesset proclaiming Jerusalem the capital of Israel".

The right to self-determination, the withdrawal of the forces of occupation and the totality of the recognized inalienable rights of the Palestinian people thus include Jerusalem. When the Palestinians, represented by the PLO, call for the establishment of a State in Palestine with Jerusalem as its capital, they are in the direct line of international legitimacy.

It will be for the Palestinian people, which is, moreover, made up of Christians as well as Muslims, once it has recovered and given concrete expression to its independence, to determine freely what status it will give to Jerusalem.

Thus, however complex the question of Jerusalem may be there are certain established facts which should be taken into account and which may be summarized as follows:

(a) Jerusalem is an Arab city and has been since the seventh century;

(b) The question of Jerusalem is not a religious question but a national and colonial question;

(c) The United Nations has envisaged a special status but has been unable to ensure respect for it;

(d) Israel has annexed Jerusalem by force and is trying to Judaize it at any cost;

(e) The United Nations and the international community reject these pretentions;

(f) The fight of self-determination extends to the indigenous Arab population of Jerusalem.

Ultimately, it is within the framework of respect for the fundamental principle of the right of the Palestinian people to self-determination that the status of Jerusalem will find its solution.

E. JERUSALEM: THE PLIGHT OF THE HOLY CITY

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Introduction

The question of the status of the Holy City of Jerusalem has not had, in recent years, the glaring exposure before world public opinion that would be to the three monotheistic faiths: Islam, Christianity and Judaism, representing some 1.5 billion souls on this earth. Indeed, none of the previous seminars in this series has had any papers devoted to this burning question. Therefore, I believe that it is timely and appropriate that at this eighth United Nations Seminar on Palestine, held here in Jakarta, capital of the largest Moslem country in the world, the question of Jerusalem has been included as a subject for our consideration.

This paper will attempt to cover the status of Jerusalem from the period of the First World War onward, focusing specifically on the developments that took place during the League of Nations Mandate for Palestine, Jerusalem and the United Nations from 1947-1967 and the post-1967 period.

Prior to the League's granting of the Palestinian Mandate to Britain

On 24 July 1922, the League of Nations officially designated Great Britain as the Mandatory Power in Palestine. The League Mandate was specifically and openly designed to facilitate the establishment of a "Jewish National Home", as incorporated in the Balfour Declaration of 1917 which states:

> "His Majesty's Government view with favour the establishment in Palestine of a National Home for the Jewish people, and will use their best endeavours to facilitate the achievement of the object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or he rights and political status enjoyed by Jews in any other country".

This clear statement of British policy fully exposed the intent of the British to allow unrestricted Jewish immigration into Palestine, that would lead to a demographic domination by Jews and which would create the conditions necessary for the wholesale seizure of the territory by them. Indeed, the British could hardly claim ignorance as to the Zionist's ultimate designs since a Zionist draft was submitted to the British Government on 18 July 1917 calling for the British to adopt as their policy "the establishment of a Jewish National Colonizing Corporation that would further the resettlement and economic development of the country", (emphasis added).

The reference to a "National Home for the Jewish people" contained in the Leagues mandate to Britain can only be understood as a smokescreen by Britain because, as early as 1897 and again in 1903 the Zionist Movement unabashedly declared that their objective was the establishment of a Jewish State in Palestine endowed with all the attributes of sovereignty and not a Jewish National Home. Thus, when on 26 April 1920 the Allies adopted the Balfour Declaration designating Britain as the Mandatory Power in Palestine, the stage was already set for the treacherous abandonment of the promises made to Sherif Hussein regarding the establishment of the Arab people's sovereignty on the former territory of the Ottoman Empire. Throughout 1916, 1917 and 1918 repeated assurances were made by Britain affirming that the independence of the Arab countries was definitely recognized by the British Government.

All subsequent developments must be understood in the context that Britain was simultaneously making separate agreements with the Arabs and the Zionists. The Arabs, who rose in revolt against the Turks and allied themselves with Britain, were promised independence, which was always understood to include Palestine. On the other hand, the Zionists were promised "a national home in Palestine" which they always intended to convert into a national State.

During the period before the League of Nations' official designation of Great Britain as the Mandatory Power in Palestine, and even before the British were able fully to establish administrative control over Palestine and Jerusalem, the Zionists were already making a physical claim to areas in Jerusalem as demonstrated by their founding of the Hebrew University on Mount Scopus in July 1918. The behaviour of the Jews in Palestine, including the two Zionists battalions in the British Army stationed there and the Zionist Commission under

Weizmann, which in March 1918 held political demonstrations that they called "public service" at the Wailing Wall, posed an overt provocation that led to 1,920 riots in April alone, in the course of which over 230 inhabitants were killed or wounded. And, if this is not enough, Weizmann, totally impervious to Arab sensitivities and exposing an audacity devoid of any consideration or respect for Moslem religious devotion, went so far as to offer to buy the land around the Wailing Wall which fully confirmed Arab fears that the Zionists were preparing to seize property of a Muslim religious site, particularly one that is connected with the third holiest place in Islam, the western wall of the Haram. The British attitude towards this was not as one might expect, immediately to forbid the Zionists to make such a potentially explosive move, but rather the Military Governor of Jerusalem actually took upon himself the task of acting as an intermediary in this venture that can only be described as an affront to all of Islam.

These events clearly demonstrate that the question of Jerusalem is not one that manifested itself only with the creation of the United Nations Special Committee on Palestine in 1947. Rather, the Zionist movement had as early as 1918 made overt efforts to alter what has come to be known as the "status quo" of Jerusalem by making territorial claims on areas in the Holy City in the guise of religious rights. Thus, the stage was already set in 1920 for the struggle against Zionist usurpation of Jerusalem.

This was no doubt an inauspicious beginning to the British mandatory regime: a tiny minority of about 8 per cent of the population claiming, with the protection of British bayonets, not only political dominance over the vast Arab majority, but also possession of part of the Haram itself in the Holy City of Jerusalem. Further, in 1917, the Jews owned 1.5 per cent of the land; by the end of the Mandate, it increased to 5.7 per cent but by 1947-1948 they held 73 per cent of Palestine.

The British Mandate under the League

Throughout the period of the British Mandate under the League of Nations, 1922-1947, the question of the status of Jerusalem was by and large limited to the maintenance of the status quo with regard to the Holy Places.

It should be noted, however, that the Mandate was granted without reference to the wishes of the people of Palestine, a violation of the Covenant of the League. What is more, the Balfour Declaration, which was incorporated into the Mandate was itself of dubious legal value since Great Britain had, at that time, no sovereignty, no title of ownership, and no right on the basis of which it could offer Palestine to the Zionist movement without the consultation of its population. Hence, it may be said and proven that this Declaration is a violation of the right of the Palestinian people to self-determination.

Further, the illegality of the Mandate for Palestine lies in the fact that Article 22 of the Covenant of the League of Nations states that the Mandatory Power has an obligation to maintain these territories in their original integrity and hence to respect he full rights of their population. The League of Nations, by including the Balfour Declaration in the Mandate for Palestine, violated Article 22 of the Covenant to which it owed its existence. Moreover, the Mandate for Palestine was class A, by which the Mandatory Power was to recognize its provisional independence and provide, within a very short time, for its full independence. According to Article 29 of the Covenant of the League of Nations and the Mandate itself, the exercise of sovereignty by the Palestinian people was suspended only temporarily. Upon the expiry of the Mandate, that sovereignty over Palestine including Jerusalem should have reverted in its original integrity to its legitimate holder: the Palestinian people. That was not the case. On the contrary, with waves of Jewish immigration facilitated by Great Britain and the expulsion of the Arab population by force and terror, the Zionists took possession of Palestine in order to find there, not a Jewish National Home in accordance with the Balfour Declaration, but a Zionist State.

In recognition of the special significance of the Holy Places which were on the whole Moslem and Christian and since the people of Palestine were overwhelmingly Moslem and Christian Arabs, the Mandate made special provisions for assuming full responsibility or preserving existing rights in all the Holy Places which can be considered the modern origin of the so-called "status quo".

Article 13 of the Mandate states:

"All responsibility in connection with the Holy Places ... including that of preserving existing rights and of securing free access ... is assumed by the Mandatary (Power) who shall be responsible solely to the League of Nations ... nothing in this Mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric of the management of purely Moslem sacred shrines, the immunities of which are guaranteed."

Article 14 states:

"A special commission shall be appointed by the Mandatary (Power) to study, define and determine the rights and claims in connection with the Holy Places and the rights and claims relating to the different religious communities in Palestine".

While Jerusalem is not specifically mentioned, the significance of these provisions in the Mandate for the Holy City should be obvious.

The Arab-Jewish struggle for the political, economic, military and administrative control of Jerusalem and Palestine began and intensified during the Mandate. However, the Wailing Wall was to become the focal point of the struggle for Jerusalem.

During the 1920s there was a mass immigration of Jews to Palestine which precipitated a heightening of tension throughout the region, particularly Jerusalem. The specific reasons for the hostilities shed light on the fact that for centuries oriental Jews and Arabs lived side by side in Jerusalem without incident and as good neighbours. However, with the massive influx of European Jews who no only were culturally alien to the indigenous population and who brought with them, not religious piety and respect for the other two monotheistic faiths of the Holy City, but rather a political movement which blurred any distinction between religion and political power and whose programme was designed to impose their ideological prescription for Palestine irrespective of the rights and wishes of all others. In a word, zionism was the harbinger of perpetual turmoil and conflict in Jerusalem, a Holy City that had for so many centuries represented the highest ideals of tolerance and respect between the three faiths of Christianity, Islam and Judaism. Thus, the Zionists were gathering strength in Palestine under the protectorate of the British and were already in the 1920s using religion, the question of Holy Places and Jerusalem itself, in their campaign to disenfranchise the Palestinians and the whole of the Arab world from their beloved land, especially their sacred Holy Places. During the period 1920-1929 alone, some 100,000 Jews had been admitted into Palestine, with many of them settling in West Jerusalem.

The Wailing Wall - Al Buraq

By the end of the 1920s the cauldron of enmity was to spread over the Holy City. All that was needed was a spark to ignite the fires of open hostility and the Wailing Wall was to provide that spark. During the first decade of the British Mandate, the Government in Jerusalem, assumed responsibility for maintaining the "status quo" which had existed during the Ottoman Empire. This requirement was indirectly established in article 13 of the Mandate which makes reference to "existing rights", an allusion to the conditions and rights that existed under the Ottoman Empire. However, the Zionist Movement was determined to undermine these provisions in any way possible and in 1925 under the pretext of religious rights, the Jews began to make good on the demands of Weizmann and claimed it to be in the possession of the Jews throughout the world. That year the Jews decided to test the veracity of British determination to uphold the principle of the "status quo", which was based on a Turkish decree of 1852 that subjected the Holy Places of Jerusalem to a rigorously enforced set of rules, by introducing accessories to their religious ceremonies at the Wall. Subsequently, a ruling by the Government banned the introduction of benches, seats and other items before the Wall. Despite this decree the Jews again attempted to place unacceptable objects in front of the Wall. In 1928 they placed a screen in front of the Wall in violation of the Government's decision. Although the screen was eventually removed by the British, the Jewish protestations and manoeuvres further convinced the Arab population that the Zionist aim was to take possession of the Mosque of Al-Aqsa gradually.

The politization of he Wailing Wall issue was fully realized when the Zionists triggered a new outbreak of violence on 15 August 1929. They used a Jewish holy day, Tish B'Av, commemorating the destruction of the Temple, to stage a political demonstration at the Wall, including political speeches, the raising of the Zionist flag and the singing of the Jewish National Anthem. This provoked a counter-demonstration by Arabs and the following week open violence broke out. Jews and Arabs battled from 23 to 29 August resulting in some 500 Jews and 350 Arabs killed or injured. If there was any positive result from this incident, it is that it prompted the British to appoint a commission to investigate and which issued a report that concluded: "A National Home for the Jews, in the sense in which it was widely understood was inconsistent with the demands of Arab nationalists while the claims of Arab nationalism, if admitted, would have rendered impossible the fulfilment of the pledge to the Jews".

Thus, the question had come full circle. The British were now ready to admit that their plan for a Jewish National Home, as stated in the Balfour Declaration and incorporated in the League's Mandate, was unworkable as it would deny to the Arab population their national rights. Having made this finding, the Commission limited itself to issuing detailed instructions regarding the use of the Wall to preserve the status quo of the holy places.

By 1936, the situation became untenable as Arabs of Palestine recognized that if something was not done, they would, by virtue of Jewish immigration, become a minority in their own land. During the period 1919-1932, 24,000 Jews had immigrated into Palestine. However, between 1933 and 1936, the number totaled over 164,000. Even though the total population of Jews in all of Palestine was 30 per cent of the general population, it was clear to all that, at the 1936 rate of immigration, European Jews would overwhelm the indigenous Arab population in a few brief years. In fact, by 1936 there were 49,000 Arabs in old Jerusalem, while the walled city was surrounded by 76,000 European Jews. Even the Royal Commission (the Peel report) reported that Palestine could become predominantly Jewish in only a decade.

It was this real threat to the very survival of Palestine and Jerusalem as a land of the indigenous population that incited the riots of April 1936. This was the most serious outbreak of violence during the Mandate period. It was also different in that not only did Arabs and Jews stage violent confrontations, but the Arabs also recognized the British as an adversary, owing to the refusal of the British Government to change its polity on Jewish immigration. Thus, the conflict went beyond Arab and Jewish enmity. It also involved open and violent incidents against the British by the Arabs. By the time the violence subsided, the killed or wounded numbered over 1,000 Arabs, 388 Jews and 243 of the Mandatory Government.

These repeated violent outbreaks of hostilities prompted the British to propose, in the Peel report, the partition of Palestine between Arabs and Jews, with a separate regime for Jerusalem. With regard to Jerusalem the report states:

> "The partition of Palestine is subject to the overriding necessity of keeping the sanctity of Jerusalem and Bethlehem inviolate and ensuring free and safe access to them for all the world. That, in the fullest sense of the mandatory phrase, is a sacred trust of civilization, a trust on behalf not merely of the people of Palestine but of multitudes in other lands to whom those places, one or both, are Holy Places".

The partition plan was not implemented. However, it is very significant in that its basic elements were to become incorporated into the subsequent United Nations partition plan.

The one overriding conclusion that can be drawn from the period of the British mandate is that the Mandatary Power was a total failure because its policies included the abrogation of agreements and promises to the Arabs by the British. In the end, in fact, the British were clearly identified by the majority of the Arab population as an impediment to the securing of their rights and thus their struggle became not only against the Zionists usurpers but also against the Mandate itself.

Jerusalem under the United Nations

When the Palestine Question was taken up by the United Nations in 1947, the country was ravaged by conflict and war. Because of its religious significance and symbolism, Jerusalem became a centre of convergence and Arab-Jewish confrontation. A large number of Jewish immigrants had settled in a new expanded western sector while the ancient eastern sector, including the walled city, remained predominantly Arab. The United Nations Special Committee on Palestine, appointed by the General Assembly to submit proposals, estimated that there were about 100,000 Jews and 105,000 Arabs (and others) in Jerusalem. The Committee, recommending the partition of Palestine, called for the territorial internationalization of the Jerusalem area as an international conclave which was subsequently approved by the General Assembly on 29 November 1947 as resolution 181 (II). The resolution, inter alia, states: "The City of Jerusalem shall be established as a corpus separatum under a special international regime and shall be administered by the United Nations". It also stipulates that "the City of Jerusalem shall be demilitarized, its neutrality shall be declared and preserved..." and "free exercise of worship shall be secured in conformity with existing rights...". Thus, the principle of upholding "existing rights" in the Holy Places was maintained in that resolution. Other articles stipulate that these provisions"... shall be under the guarantee of the United Nations, and no modification shall be made without the consent of the General Assembly ...".

However, with the outbreak of war between the Palestinian Arabs and Zionist military organizations during early May 1948, Israeli territorial control expanded into the western sector of the Jerusalem conclave destined for internationalization under the resolution cited earlier, while the eastern sector including the walled city came under the occupation of Jordan. All of these developments led to the de facto partition of Jerusalem.

It is pertinent to note that another resolution of the General Assembly resolution 194 (III) of 11 December 1948 - resolved, inter alia, " ... that the Holy Places - including Nazareth - religious buildings and sites in Palestine should be protected and free access to them assured, in accordance with existing rights and historical practice ... " and that "... in view of its association with three world religions, the Jerusalem area ... should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control".

Between them, these two resolutions maintained the principle of the internationalization of Jerusalem and the maintenance of "existing rights" and historical practice. None the less, the Knesset proclaimed Jerusalem as the capital of Israel on 23 January 1950 and by 1951 Israeli ministries moved into the New City. Earlier in September 1948, the Israeli Supreme Court was established in "New" Jerusalem. In fact, back in February 1949 the Knesset assembled and the President took the oath of office in the city.

Despite these serious set-backs, the United Nations continued its efforts to establish an international regime. The Arabs, notwithstanding their initial rejection of resolutions 181 (II) and 194 (III), supported the principle of internationalization before the Conciliation Commission for Palestine, which was spurned by Israel.

In December 1949, the General Assembly, referring to its previous major resolutions, reiterated the principle of internationalization of Jerusalem and requested the Trusteeship Council to finalize a statute, specifying that the Council "shall not allow any actions taken by any interested Government of Governments to divert it from adopting and implementing the statute of Jerusalem". On 4 April 1950 the Council approved a statute which conformed to the territorial internationalization plan embodied in resolution 181 (II) of 29 November 1947. Thus, during the period 1947-1950, the General Assembly reaffirmed the principle of maintenance of "existing rights" and an international corpus separatum status for Jerusalem, despite its de facto division between Israel and Jordan.

The division of Jerusalem from 1950 to 1967 between two hostile States brought with it certain consequences. As this division became protracted and progressively integrated into two hostile countries, the political barriers consolidated. The psychological rift also deepened as an essentially Arab society continued its traditions in East Jerusalem while West Jerusalem became more Europeanized.

United Nations efforts to secure the internationalization of Jerusalem faded after 1950 and the international acquiescence in the status quo of a divided Jerusalem was abruptly ended by Israel's occupation of East Jerusalem in 1967, which resulted in serious repercussions to the status of Jerusalem. With West Jerusalem already declared as its capital, subsequent Israeli actions through legislative measures brought evidence of Israel's intentions to annex the entire city. As a result, it refused to accept Security Council resolution 237 (1967) of 14 June 1967 which stipulated that the Geneva Conventions of 1949 were applicable to areas under military occupation. Further, Israel's refusal to heed two resolutions of the General Assembly - 2253 (ES-V) of 4 July 1967 and 2254 (ES-V) of 14 July 1967 - declaring, inter alia, that measures taken to alter the status of Jerusalem were invalid, left little doubt of Israel's intent of annexation. Both of these resolutions had received overwhelming support with no dissent but were nevertheless ignored by Israel, which defiantly moved its Supreme Court to East Jerusalem and extended its law to the newly occupied territories.

The Security Council also censured Israel and called for the rescinding of measures that affected the status of Jerusalem. Resolution 242 (1967) called for Israeli withdrawal from occupied territories, which also applies to Jerusalem. In addition, the Council adopted a number of resolutions specifically directed to the status of Jerusalem. Resolution 252 (1968) of 21 May 1968 considered that all measures taken by Israel were invalid and called upon Israel to rescind all such measures and desist forthwith from taking further action which tended to change the status of Jerusalem. Resolution 267 (1968) of 3 July 1968 censured Israel for its non-compliance with resolution 252 (1968).

Following the outbreak of fire in August 1969 in the Al-Aqsa Mosque, one of the holiest places for Islam, the Council, in resolution 271 (1968) of 15 September 1969 took the strong step of condemning Israel for flouting United Nations resolutions on Jerusalem. Yet another Security Council resolution 298 (1971) of 25 September 1971 declared all past Israeli actions and legislation in respect of Jerusalem "totally invalid".

All of the foregoing confirms the non-recognition of Israeli occupation of Jerusalem. It is relevant to draw attention in this context to the conclusions of the study entitled "The Status of Jerusalem", prepared for the Committee on the Inalienable Rights of the Palestinian People, which *inter alia*, concluded that:

> "The resolutions of the General Assembly and the Security Council in relation to Jerusalem following the occupation of the entire city of Jerusalem by Israel in June 1967 also maintained the original principle of internationalization. Further, they required Israel to withdraw from territories occupied during the conflict, and to rescind all measures taken, as well as to refrain from taking further measures, to alter the status of Jerusalem".

It is clear, therefore, that the United Nations since 1947 has maintained the principle that the legal status of Jerusalem is that of a *corpus separatum* under an international regime as originally formulated in resolution 181 (II).

Thus, the United Nations has maintained a constant policy, either through the General Assembly, in particular in resolution 181 (II) of 1948, 194 (III) of 1949, 2253 (ES-V) and 2254 (ES-V), or through the Security Council, in particular in resolutions 252 (1968), 267 (1969), 298 (1971), 446 (1979) and 465 (1980). The Security Council has condemned, in particular the occupation regime which aims at gradually establishing a process of annexation. The General Assembly, the Security Council and the whole international community, in this regard, have been unanimous in considering as null and void any unilateral measures taken by the occupation regime with the aim of transforming a de facto situation into a *de jure* one.

Jerusalem after 1967

The 5 June 1967 occupation of the remnants of what until 1948 had been a sprawling, heterogenous and prosperous city and environs, predominantly Palestinian Arab in population as well as in lands and properties, was only the final act in the relentless implementation of a carefully laid plan for the demise of a historical Jerusalem which, under all rules of law and equity, should have remained a sacred trust, a tolerant and ecumenical city and the inalienable procession and legacy of the indigenous inhabitants, who were predominantly Palestinian Arabs, without in the least dispossessing, excluding or discriminating against the Jewish faith or Christianity.

On 27 June 1967, the authorities of occupation adopted a resolution whereby the Government of Israel was authorized to apply "Israeli law" in any land area which it deemed necessary to annex to Israel. Thus, the Israeli army dissolved the legally elected Municipal Council of the Arab City of Jerusalem. On 20 June 1967, the military authorities abolished Jordanian laws and regulations, replaced them with Israeli laws and regulations, and set up an Israeli military body which subjected all of the Arab inhabitants to oppression.

Slowly but consistently, the Israeli authorities have implemented their expansionist designs and have enlarged the area of the city, by annexing to Jerusalem additional portions of the occupied West Bank. As a result of this deliberate policy, it is estimated now that approximately 30 per cent of the West Bank had been absorbed within the city limits.

The Israeli occupation of Palestine and all of Arab Jerusalem has, in fact, cut off tens of millions of Christian Arabs throughout the Middle East and hundreds of millions of Moslems from performing their prayers at their Holy Places for three decades in three fourths of Palestine and for over 16 years in Arab Jerusalem and the rest of the territories occupied since 1967. Further, after 1967, Moslem and Christian Holy Places in Jerusalem were placed under the jurisdiction of an Israeli Ministry and the Higher Islamic Council, Al-Haya al-Ilmiyyah al-Islamiya, was refused recognition by the occupation authorities. Also the encirclement of the 1967 occupied sector has become virtually complete with a massive ring of high-rise buildings to the north, south, west and east, thus effectively isolating Jerusalem from the Arab population in the West Bank.

After the occupation of the Old City, Israel embarked upon a programme to enlarge the three-metre-wide area between Al Buraq-As Sharif, or Wailing Wall, and the adjacent Moroccan and Bab-Al Silsila quarters. Both quarters, and many others, were Islamic Waqf religious endowments. They were all bulldozed to the ground in spite of condemnation by the international community.

After all of these actions came a plan to plunder Arab property. During the period of 1968-1976, the authorities of occupation committed wide-scale and wanton acts of confiscation and plunder. These include expropriation of vast tracts of land outside the city walls. Within the city walls the occupation authorities illegally seized over 600 buildings, composed of residential property. In addition, over 500 commercial buildings belonging to Arab proprietors were also seized and confiscated. The Israelis even turned into rubble all Arab buildings on over 89,000 dunums of Arab land seized between 1969 and 1976. In their place, they constructed industrial and residential complexes for Israeli settlers. By means of this plan the authorities of occupation acquired one third of the occupied West Bank.

Along with this destruction and seizure, the Israeli occupier has undermined and destroyed Moslem religious property under the pretext of archeological excavations. The result of these actions has been the collapse of Saqf property surrounding the Haran as-Shareef, which was of high religious and cultural value to all Moslems. In addition, the excavations have damaged Al-Zawiyah Al-Fakrieh and adjoining buildings. In fact, these excavations have reached under the southern wall of Al-Haram as Shareef, the lower courts of Al-Masjid Al-Aqsa, Masjid Omar and the south-eastern halls of Al-Aqsa, which threaten the structural integrity of the Al-Aqsa Mosque itself.

These steps evoked protests by the international community, especially UNESCO, against the destruction of millenia-old structures and the bulldozing of holy sites. It was determined that, if continued, these policies would alter the universal and indigenous character of the Holy City, both territorially and demographically and destroy the Arab character of the city.

Having seized so much Arab property outside and inside the walled, city, the Israelis embarked on the physical removal of the Arab population. They initiated a programme on 25 June 1974 that resulted in the forcible removal of nearly 20,00 Arabs from within the walled city alone. As a result over 5,000 Israelis now live within the city walls in the four Arab quarters from which the population was driven.

The Israeli occupiers have planned the total elimination of Arabs from Jerusalem through attrition by mortality of the old, the exodus of the young abroad for education and gainful employment and through intimidation and seizure of Arab property and by refusing to recognize Arab ownership if the owner is not permanently living on the property. At the same time, it should be noted the Israelis are attempting to sell Arab property to Jews in other countries who have never even been in Israel.

A part of this despicable policy has been the exile of the social, political, religious and economic leadership of Arab Jerusalem to deprive the people of their representatives thereby making them more easily controllable by the occupation regime.

In tandem with all of the aforementioned, Israelis have committed heinous attacks against Muslim Holy Places in Jerusalem. With Muslim Holy Places placed under the direct control of the Israelis, we have witnessed repeated attempts to destroy those sites. In August 1969, there was an arson attempt against the Aqsa Mosque. Then a month later a plot was uncovered to blow up the venerated Aqsa Mosque and the unmatched Dome of the Rock, the first Kiblat in Islam and the third holiest sanctuary.

As recently as last year, an Israeli soldier invaded the Al-Aqsa Mosque,. His murderous designs resulted in many Arab deaths and the destruction of various portions of the Dome of the Rock. In this regard, Christian Holy Places have also not been spared, having been subjected to various forms of destruction, robbery, arson and seizures.

The aim of all these policies has been the ultimate Judaization of all of Jerusalem, including the essential infrastructure dealing with all aspects of Arab society. With regard to the economy, all Arab banks were closed, including the Arab Bank, the Cairo Bank, the Jordan Bank, the Real Estate Bank, the National Bank and Intra Bank. These banks were not only closed, but their assets were confiscated. Israeli currency was introduced as also the Israeli system of taxation, including the supplementary tax and the defence tax which is collected from the Arabs for the benefit of the Israeli army, occupiers of their land. The result was a total paralysis of the Arab economy and a continuous Arab exodus from Jerusalem to the East Bank into Jordan. The effect of these measures was to force the Arab economy, in all its aspects, into dependency on Israel so that the Arab population would become an inseparable part of Israel's economy.

In this same way the Arab educational system including its curriculum was totally taken over by Israel. The occupiers seized all government schools and educational organizations. They subjected those institutions to the same Israeli curriculum which had been forced on Arabs since 1948. About 20,000 Arab students in the city of Jerusalem are now obliged to study the Israeli curriculum and Hebrew history, without any reference to the history, culture and religion of the Arabs. The Israelis have, in this way, used psychological warfare through which the Arabs are forced to accept Israeli ideological prescriptions for their expansionist schemes.

Yet another aspect of Judaization was the sullying of the official Islamic judiciary. They removed the High Court of Appeal from Jerusalem and they amalgamated the Courts of Peace and the Courts of First Instance with the Israeli courts. They forced Arab judges and employees to become part of the Israeli Law Ministry. Thus, the official judiciary of Arab Jerusalem was completely linked to the judiciary of Israel. Because of the total refusal of Arab lawyers and judges to submit themselves to these illegal sections, the Israelis ignored all judgements of Muslim religious courts and refused to accept the petitions from the Muslim Waqf or the Muslim Committee on Jerusalem.

The inevitable result of Israeli policies in Arab Jerusalem since 1967 has been to preclude any chance for peaceful coexistence between Arabs and Jews. The plan of economic, political and social strangulation has polarized Jerusalem into two camps, one Jewish and free and the other a prison for Arabs who are deprived of all rights and means of economic, social and national sustenance.

The Israeli Government took the further step, in the face of international condemnation, to decree on 30 July 1980 that Jerusalem complete and united, is the eternal capital of Israel; that Jerusalem is the seat of the President of the State, the Knesset, he Government and the Supreme Court.

The international community was quick and forceful in its response. The Security Council unanimously adopted resolution 465 (1980) which declared that the Israeli move had no legal validity. Those few States which had embassies in occupied West Jerusalem withdrew their embassies from Jerusalem. And even Israel's friends in Europe adopted the EEC Venice Declaration which stresses that they will not accept any unilateral initiative designed to change the status of Jerusalem and that any agreement on the City's status should guarantee freedom of access to the holy places. What is more, the leader of the Catholic Church, His Holiness Pope Paul II, in June 1980 issued a categorical, ecumenical and universal statement on Jerusalem, which called for the internationalization of the Holy City. It can be said that, if there is unanimous agreement among all countries in the world, among all peoples of the world, among all the different political and social institutions in the world and among all of the major religions, including some of the leaders of Judaism, it is that Jerusalem and all the Holy Places in the city must be protected and preserved for all of humanity. It is with that objective in mind that the United Nations has maintained an unwavering commitment to General Assembly resolutions 181 (II) and 194 (III).

Conclusion

For over 1,000 years Jerusalem has been an Arab city, the capital of no State and open to all men of faith. It has always been al-Quds (the Sanctuary). Through the centuries, Muslim law, later as British policy, had preserved the character of the city in its entirety until 1948 and in its eastern half until 1967. However, after the conquests of the June 1967 war and the subsequent process of Judaization, secularization and oppression, the Holy City (the trust of humanity) has been subordinated to the ideological commitments of zionism. It thus became the capital of a secular State and the victim of military, political and ideological aggression.

It has been universally recognized that the core of the Middle East conflict is the Palestinian cause and that the core of the Palestinian cause is the denial to them of their right to self-determination, including the establishment of an independent State. The case of Jerusalem is analogous to this. Jerusalem has for a millenium been the home of the Arab people and its holy places have always been a sacred trust of the respective faiths. The unavoidable conclusion is that until the day comes when the rights including sovereignty of the Palestinian people are restored in the occupied territories and Jerusalem and until the rights of the Muslim and Christian faithful in the Holy City are re-established, it is difficult to foresee peace in the Middle East.

The status of Jerusalem has been time and again reaffirmed by the United Nations on the basis of General Assembly resolution 181 (II) and 194 (III). While these and subsequent resolutions remain unimplemented they do serve an important, indeed, crucial purpose. These resolutions have established the proper and legal status of Jerusalem irrespective of all Israeli claims to the contrary. Further, they reaffirm that for any comprehensive settlement of the Middle East conflict the status of Jerusalem will be of an importance that will not allow this question to become relegated to the background. To the Arab nation and the faithful of the three monotheistic religions, the United Nations internationalization plan is an important component of, and perhaps the litmus test for the durability of any general Middle East settlement.

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F. THE STATUS OF THE HOLY CITY OF JERUSALEM

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No capital in modern times has aroused as much interest as Al-Quds (Jerusalem). Differences of opinion have existed about many cities. After the Second World War and the subsequent division of many countries all over the world, there were many disagreements, specifically about the capitals, and generally about the future, of these divided countries. However, the disagreement about Al-Quds (Jerusalem) is more complex. It is not only a matter of which side will take it, as is the case with Berlin, or whether it remains a capital or is transferred, as is the case with Hanoi or Saigon. The problem about Jerusalem touches on the political, social, human and historical levels. This problem goes beyond the sovereignty of a group of people to the character of the place itself. It goes beyond the present situation to thousands of years back. It goes beyond, with regard to origin, history and historiography, the conflict between two human groups now present in the area. Jerusalem is an administrative entity involving people living very far from the city, but very closely affected emotionally by it because of its religious character. In fact, millions or hundreds of millions in Asia, Africa, Europe and the two Americas believe in its holiness. The Muslims are as much attached to it as they are to Mecca. Christians are as much involved in it as they are with the Vatican or any other holy or religious place. Similarly, people following the Judaic creed believe in the holiness of the city and go there on pilgrimage, just as the others do.

The numerous invasions, conquests, wars and armies that have attacked Al-Quds (Jerusalem) and departed from it and the many nations and monarchs that have made it their capital, starting from 3000 B.C. up to the present, reflect the political struggle of the different Powers to dominate this Holy City. This struggle was not limited to the regional Powers but included many armies coming from outside the area. In recent history, the Tartars came from Asia, the Franks from Europe, then Napoleon, and between these two the Ottoman Turks from Asia Minor, then the English and finally, the waves of colonizing Jewish immigrants (also a foreign occupation) from eastern Europe, mid-Europe, then from western Europe and finally from all parts of the world.

In each case, the Holy City was the target and motive of the armies. This is because its holiness among different peoples goes back in history to the time of its foundation. It therefore stands to reason that the "liberation" of Jerusalem was an expressed motive for each new army coming towards it. Today the Holy City has maintained the same position and the same impact. The simplest example that illustrates this point is the title of the present Seminar on the Holy City of Jerusalem. This city occupies a prominent place in the realities of today and in the lives of many people; it plays a crucial role in the eventual establishment of peace or of war in the Middle East and beyond it.

What are the factors behind the importance of this city? The answer to this lies in its geography and its history. Geographically, the city lies on the crossroads between the two most ancient known civilizations, the Babylonian to the east and the Egyptian to its south-west. Moreover, it overlooks the shores of the eastern Mediterranean with all the civilizations there. It was also a stop for caravans coming from the Arabian peninsula in the south-east and from India and Iran in the east. The geographic location of Al-Quds (Jerusalem) is in itself important because of the strategic position of the land of Palestine among three continents, Asia, Africa and Europe. It is therefore not by chance that some historians of Jerusalem have said it is the centre of the Holy Land and the meeting point of nations, "the centre of the planet upon which we live".

The historical factor coincides with the geographical one. The unique geographical location of the city helped to build up its human heritage and its religious character. All three monotheistic religions with all their sects believe in its holiness and have sites to which they go on pilgrimage. All year round, the city receives pilgrims from different sects and with different beliefs. The Israeli occupation, especially after the war of 1967, put an end to the pilgrimage of Muslims and of Christian Arabs, even after the peace treaty between Israel and Egypt, since Arab Jerusalem is under Israeli occupation.

It is therefore ironic that this Holy City, which has been called the House of Peace (Dar al Salam), the City of Peace (Madinat al Salam) and the Village of Peace (Qariat al Salam) is today a major problem in the way of any agreement between the conflicting parties and, unless an agreement can be reached, it will be a cause for future wars and their ideological cover too.

The unique situation of the Holy City has led to its unique status in relation to the activities related to the Arab-Israeli conflict, be they military, cultural, political or economic. The dispute about the Holy City covers all fields. The conflicting parties try by different means, such as research and publications, etc., to prove their right to the city and to justify the prevailing situation or the one that they are calling for. In fact, the Israeli side is characterized by the practical steps it takes, i.e. occupation, settlements, expulsion, destruction of houses and changing its legal status, etc.

In addition to challenging international will and neglecting the resolutions of international organizations, it undertakes effective propaganda aimed at world public opinion to the effect that the Holy City has been a Jewish city from the time of its foundation up till now. One must also mention that a great effort is being undertaken by Palestinian, by Arab and by international organizations to clarify the truth about the history of the city. More work is necessary in this respect. But in spite of the importance of propaganda and of clarifying historical truths, many people in our world today are directly interested, in a pragmatic way most of the time, to find a "solution" that saves the region, peoples and the world further suffering from wars. In any case, in a seminar like the present one, everyone agrees that Al-Quds (Jerusalem) is a unique city in its situation and in its character, that its problems are very intricate and sensitive, that the spiritual side plays a fundamental role in involving a wide geographic area and a number of parties interested in its fate and future.

Let us abandon optimism and pessimism and the dispute about the past without neglecting its effect on the present. We will try to examine the present status of the Holy City and the different projects that have been proposed, as well as other possibilities for the future.

During the British Mandate of 1922-1948, Al-Quds (Jerusalem) was the capital of Palestine. Before that, when it was under Ottoman rule, it had a special administrative status, since it was directly linked to the capital of the Ottoman State. Jerusalem remained the capital of Palestine until its western sector was occupied in 1948, at which time it became considered part of the State of Israel. In January 1950, Israel announced that Jerusalem had been its capital since the foundation of the State. The main Government offices were transferred there from Tel Aviv and the Israeli Knesset was meeting there before the end of 1949.

This was not a surprise to those familiar with the history of Zionist advances on Palestine. With each of these advances, the international organizations recommended that the Holy City be under international supervision, but Zionist leadership rejected this. But in 1949, the Jewish Agency accepted the principle of internationalization as part of the agreement of the United Nations to the partition project (which the Arab States totally rejected). When Israel applied for membership at the United Nations, the Israeli delegate gave assurances that Israel would not "follow any policies about any matter ... not in agreement with the resolutions of the United Nations and the Security Council". The Israeli delegate then gave written assurances that Israel would not oppose the internationalization of Al-Quds (Jerusalem). The resolutions of the United Nations mentioned these assurances. But as soon as it was granted membership, it voted against resolutions concerning the system governing the city under internationalization.

In April 1950, the West Bank was joined to the Hashemite Kingdom of Jordan, with Amman as its capital. The sector of the city that remained was called Arab Jerusalem. A protocol was established as part of the Israeli-Jordanian truce and a line was drawn between Arab Jerusalem and West Jerusalem. Both the Israeli and the Jordanian sides considered the city as part of their territory and it was then that the term "the two Jerusalems" appeared and became familiar to the world. During the war of June 1967, the Israeli forces hurried to occupy the remaining part of the city, in addition to what was left of Palestine (the West Bank of the Jordan River and the Gaza Strip). Although during 13 years the occupation forces had been taking steps to annex the western sector of the city, administratively, municipally, economically, culturally and educationally, its annexation was not officially announced until 30 July 1980 by a decision of the Knesset - this against all international resolutions denouncing these steps. In the meantime, the international community, with the exception of the Arab States and those States that have not recognized the State of Israel, has maintained its position about the internationalization of the Holy City. General Assembly resolution 181 (II) of 29 November 1947, which recommended the partition of Palestine, specified that Jerusalem and the surrounding area (including Bethlehem) should have a separate identity under an international system supervised by the United Nations. Generally speaking, the United Nations has maintained this position over the years. It is true that between 1950 up to the announcement by the State of Israel of the annexation of the western sector of the city, the international community did not undertake any action about Jerusalem. But most of the Member States made a point of not accepting the annexation by refusing to set up their embassies in Jerusalem and by refraining from going on official visits to the occupied city.

After 1967, several resolutions were adopted by international organizations condemning the steps taken by the occupying Israeli authorities in such matters as expelling the Arab inhabitants, confiscating their property, destroying their houses, changing the architectural character of the city and changing its legal status, etc. At the same time, they maintained their position with regard to General Assembly resolutions 181 (II) of 29 November 1947, 194 (III) of 11 December 1949 and 303 (IV) of 9 December 1949 concerning the situation of the city under international supervision.

The Arab States, after having rejected the steps taken by the Israeli occupation and the Jordanian annexation, maintained this position towards the Israeli occupation and accepted de facto the Jordanian annexation, continue to reject the idea that Jerusalem is the capital of Israel. The Twelfth Arab Summit Conference, held at Fez, Morocco, in September 1982 supported the idea of an independent Palestinian State with Al-Quds (Jerusalem) as its capital. It asked for the complete withdrawal from the Arab territories occupied in 1967, including Arab Jerusalem. However, one can notice that the Arab States always accepted the resolutions of the General Assembly and the Security Council which condemned the Israeli measures, even though the United Nations resolutions in question were based on older ones like 181 (II) on the internationalization of the city.

The only exception among the international community, specifically among the permanent members of the Security Council, was the United States. The United States supported the resolutions on the internationalization of the city from the start but, after 1967, it abstained from voting on any resolution condemning the activities of the occupying authorities. The probable motive was its protection for the State of Israel and, generally, its sympathy and support for it. Nevertheless, the United States can, if it wishes, exchange the option of "internationalization" for others. In fact, one could interpret as such the declarations made by its officials, such as the refusal to "divide the city again" or the fact that it does not mention internationalization in any of the peace projects for the Middle East. It is possible that the motive behind this position is to postpone the question of Al-Quds (Jerusalem) to the last stages of the peace process led by the United States because it is the most complicated problem. One new point was recently made obvious in an article entitled "Support Reagan's initiative" by Allan G. Kreczko in *Foreign Policy*.[8] The writer is Assistant Legal Adviser for Near Eastern and South Asian Affairs at the State Department. He had served as Legal Adviser to Ambassador Robert Strauss and Sol Linowitz during their tenures as United States negotiators in the Camp David accords and as Legal Adviser to Ambassador Richard Fairbanks. The importance of his statements is increased by the fact that Ambassador Fairbanks thinks they reflect precisely the present position of the United States Government, which is in agreement with the Camp David accords. Because of its importance, we quote the text about Jerusalem:

> "Jerusalem. The President's position is that Jerusalem should be undivided and that its final status must be negotiate. In letters accompanying the Camp David framework and signed on the same day, Egypt, Israel, and the United States set forth their conflicting views concerning Jerusalem. The U.S. letter said: 'The position of the United States on Jerusalem remains as stated by Ambassador Goldberg in the United Nations General Assembly on July 14, 1967, and subsequently by Ambassador Yost in the United Nations Security Council on July 1, 1969.' The Goldberg statement affirmed the U.S. position that Jerusalem 'must necessarily be considered in the context of a statement of all problems arising out of the recent conflict,' and the Yost statement emphasized that 'we (the United States) have consistently refused to recognize these (unilateral) measures as having anything but a provisional character and do not accept them as affecting the ultimate status of Jerusalem.' The Prescient's position was fully in accord with these statements and reflects a long-standing position of the United States". (p. 146)

Then, at the end of his article, he said,

> "Also, the United States has consistently advanced the view that the City of Jerusalem should be undivided. When questioned about the relationship between the U.S. view that East Jerusalem is occupied territory and that the City of Jerusalem should be undivided, former Secretary of State Cyrus Vance replied in testimony before the Senate Committee on Foreign Relations on March 20, 1980.
>
> "If you will go back to 1970 and the statements which were made at that time, we said then that there was occupied territory in Jerusalem, namely East Jerusalem, yet, at the same time, the U.S. Government believed that it should be a united or undivided city. What that meant, very simply, was that it should be physically undivided: that never again should there be barbed wire between the various parts. It did not purport to say what the final political solution should be. It did not speak to the ultimate question of sovereignty. It talked to the question of what the city would be in terms of its physical characteristics." (p. 153)

Another new attitude is obvious on the part of the great Powers regarding Jerusalem: the appendix of the friendship and cooperation treaty between the Soviet Union and Syria considered that the Israeli occupiers should withdraw from the West Bank, including Arab Jerusalem. A prominent Soviet spokesman and orientalist, Kirilian, the Deputy Director of the Oriental Institute of Moscow, explained the Brezhnev project during a seminar held at Beirut in 1981 on peace in the Middle East. It asks for Israeli withdrawal from Arab Jerusalem. There has recently, moreover, been repeated official Soviet support and support from the media for an Israeli withdrawal from all Arab territories, including Arab Jerusalem. The declarations of Brezhnev during dinner party in honour of the Yemeni Prime Minister, Muhamad Ali Nasser, after the Fez Summit, stand out particularly. The Soviet-Palestinian final communiqué after the visit of Yasser Arafat to Moscow in the second week of January 1983 repeats the demand for immediate and unconditional Israeli withdrawal from all the territories occupied after 1967, including the eastern part of Jerusalem.

But the most important new element is the emergence of the Palestinians as an independent party with an organized framework, which is the PLO. This organization is gaining increasing recognition from the international community. It announced an interim programme years ago for an independent Palestinian State on Palestinian land from which the Israeli occupation force would withdraw, with Al-Quds (Jerusalem) as its capital. Al-Quds (Jerusalem) has in fact become the symbol of the Palestinian homeland and nationality. This cannot be overlooked.

In other words, the international position about the internationalization of Al-Quds (Jerusalem) is not as it was before. It is true that internationalization remains as one alternative but there are other alternatives as well.

At the present time, the attitudes of the different parties with regard to the Holy City can be summarized as follows:

(a) The Arab Palestinian people and their representative, the PLO, insist that Al-Quds (Jerusalem) be the capital of an independent State on liberated Palestinian land;

(b) The State of Israel and all the Israeli community want Jerusalem to be the eternal capital of the State, never to be divided again;

(c) The Arab States support the Palestinian attitude;

(d) The Islamic States support the Arab-Palestinian position, specifically with regard to Al-Quds;

(e) The international community continues to reject the measures regarding the annexation, officially at least, and to support resolution 181 (II) of 29 November 1947;

(f) Obscure changes in the attitudes of the United States and the Soviet Union are open to further discussion;

(g) The Vatican adopts the idea of internationalization in some of its declarations.

All these parties have means at their disposal to realize their objectives with methods varying in their effectiveness.

The PLO continues the struggle by different means available to it. But it faces a rejection from the West, especially from the United States, with regard to its recognition as the sole legal representative of the Palestinian people and its role in the peace negotiations and negotiations about the Holy City.

As for Israel, it utterly rejects any negotiations with, or recognition of, the PLO. It also absolutely rejects Reagan's proposal. At the same time, it continues to change the character of the land in Al-Quds (Jerusalem) and its surroundings and in all the West Bank, in preparation for its political annexation of the occupied lands.

Until now, the United States has been using the method of separating the different problems related to the conflict and dividing the concerned parties, postponing the complicated issues, one of which is that of Al-Quds (Jerusalem). From time to time, it declares that it objects to a particular Israeli measure. The objection is usually made outside the United Nations framework. But it uses no real pressure against the State of Israel to make it change or to stop or freeze what it is doing.

The Israelis know, however, that there are limits to the United States protests and that is why they are quickly changing the character of the land and creating new realities, with the hope that the United States will find something in its own interest, as with the Israeli attack of Lebanon and the siege of Beirut.

As for the Arab side, its activities are limited to international organizations and getting declarations or condemnation, and the international community usually complies. The situation with Islamic States and States supporting the Arabs and Palestinians is the same.

In the meantime, there is the unchanging fact that the occupying Power continues to modify the character of the city, mindless of all protests and condemnations. So the question arises, what is to be done?

This is not an invitation to despair or war.

However, it is clear that what is being done now is insufficient, in spite of the great changes in world public opinion regarding the justice of Arab demands on Jerusalem. Moreover, it is not possible to maintain that time is to the advantage of the geographical and historical factors. They may be stable truths, while the Israeli measures are changeable, but the passing years are not simply paper calendars. The inhabitants of Jerusalem live under occupation, with threats of expulsion and continual attacks of religious sites. The month of March 1983 witnessed more than 10 such attacks from Jewish extremists. The Israeli authorities detained hundreds of Arab youths who protested and severely wounded some of them with their shooting. The only positive point in these events is that the Zionist propaganda that says that the Israelis protect religious freedom for all beliefs is shown to be false. Perhaps they wish to maintain freedom for tourism to all religious places but religion is not the same thing as tourism. In fact freedom of tourism can be an encroachment on the religious sites.

We can now leave aside the stress under which the Palestinian Arabs live and the humiliation for Christians and Muslims all over the world at the actions of the extremists, who are protected by the occupying authorities, and turn to take a look at the future.

The continued Israeli measures against the city and its inhabitants and the creation of new residential quarters on confiscated land in order to settle Jewish inhabitants and expel the Arab population will not negate the struggle. In fact, it is likely to give it a new motivation in trying to modify the balance of power and create more bitterness. The settlers of Yamit in Sinai had to be convinced by physical force. In fact, there is still a group calling itself the "return to Sinai group". One can easily imagine the situation with regard to settlements established in and around the Holy City.

One has, unfortunately, to expect that every measure by the Israeli authorities against the city and its inhabitants is like a bill that will have to be repaid in the future. Perhaps the interest will be high, too. If the international community does not move to put pressure on the aggressors to stop their acts, make them withdraw from the Holy City and force them to respect human rights and international conventions and resolutions, the suffering of these people will increase and peace and security will be more and more endangered every day (as affirmed in Security Council resolution 478 (1980).

A possible solution for the international community is to adopt the PLO programme by considering it the sole legal representative of the Palestinian Arab people. The PLO also asks for the realization of the inalienable rights of the Palestinian people, such as the right to return to their homeland and the right of self-determination and of setting up an independent State, with Arab Jerusalem as its capital. In the light of such a programme, the creation of a State in the framework set up by the PLO, with its commitment to set up a democratic State on the land of Palestine where all, whether Christians, Muslims or Jews, will have the same legal rights, will open a door to the road of a just and lasting peace in the Middle East and Jerusalem will become, as it has always been, the capital of all the faithful in the world, of all human beings and of all Palestine.

Notes

1/ Al-Dajani, Curuba wa-Islam wa Mucasara (Manshurat Falastin al-Muhtalla, Beirut, 1982).

2/ Ibrahim Abu-Lughod, translated by Dr. Razzouk Asaad, Transformation of Palestine (Beirut, PLO Research Centre, 1972).

3/ Mary Ellen Lundesten, Wall Politics in Palestine (Jerusalem, 1928).

4/ Palestine Studies Journal 29, vol. VIII, No. 1 (Autumn 1978), (Beirut), pp. 3-27.

5/ Henry Cattan, "The Status of Jerusalem", Palestine Studies Journal 39, vol. X, No. 3.

6/ "The destruction of an Islamic heritage in Jerusalem", special report, Arab Studies Quarterly, vol. 2, No. 2 (Spring 1980) (New York).

7/ Avi Plascov, "A Palestinian State? Examining the Alternatives", Adelphi Papers 163, (London, International Institute for Strategic Studies, Spring 1981).

8/ Allan Kreczko, "Support Reagan's initiative", Foreign Policy, vol. 49 (Winter 1982-1983), pp. 140-153.

G. JERUSALEM (AL-QUDS/KUDUS-I SERIF) UNDER THE OTTOMAN EMPIRE

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The question of Palestine which, in broad terms, entails the struggle for the rights of the Palestinian people to return home and to assert their national determination, has been identified by the United Nations and other international organizations and authors alike as the core of the Middle East conflict. For some authors, the status of Jerusalem is not only the heart of the Palestine question, but also, among all the issues concerned, prove to be the most difficult to resolve.[1] If the roots of the Palestine question can be traced to the emergence of the Zionist movement, which around the 1880s set its eyes upon Jerusalem and environs as the future Jewish State, then the history of the Arab-Israeli conflict could be examined, by using the legal sovereignty over the country as the determinant, under three periods: Ottoman, British and Israeli. Although pioneering efforts have been made in the investigation of the Palestine conflict from the Turkish primary sources,[2] not much is known on the status of Jerusalem under the Ottomans whose occupation over Palestine dated back to 1517, encompassing four centuries of uninterrupted rule.

When mentioned, however, the status of Jerusalem under Ottoman rule is mostly sketched in most derogatory terms. Under the Turks, it is stated in a recent book, Jerusalem "sank into four centuries of political obscurity until British sentiment, influenced by Christianity and the romance of the Crusades, rehabilitated Jerusalem as the administrative capital of Palestine under the Mandate".[3] The Ottoman provincial administration is portrayed as "repressive" and "corrupt", and the people as "ground to poverty by crippling taxation and corruption at all levels of administration till honest enterprise was killed; and "the land fell derelict and was bought up by native landlords and by Levantine speculators and moneylenders, who eventually sold the land to the Jews".[4] It must have been obvious that the author aimed to whitewash the subsequent British (Christian) and Israeli (Jewish) colonial practices at Jerusalem by using the Turkish (Muslim) rule as a pretext. If the Turkish rule could be presented in darkest colours, then, perhaps the "achievements" of the British and Israeli "civilizing missions" could be appreciated and their excesses excused. In the following account, an attempt will be made to give a truer picture of Jerusalem under the Ottoman Empire, with special emphasis on the nineteenth and early twentieth centuries.

During the early centuries of Ottoman rule, Palestine was a geographical expression commonly known as the Arz-I Filistin or Arz-i-Mukaddese, but did not form a political administrative unit on its own. It was divided into several districts (sanjaks) which, up to the beginning of the seventeenth century, were part of the Damascus province (eyalet). Later on, most districts in central and southern Palestine, as well as those in the area east of the Jordan River, continued to be at least nominally under the jurisdiction of Damascus, while the Galilee districts were transferred to the newly established eyâlet of Sidon. In 1841, after a decade of Egyptian occupation, all the Palestinian districts except for the area east of Jordan were placed in the province of Sidon (later called the vilayet of Beirut).[5] In the second half of the nineteenth century, however, Palestine began to assume a distinct administrative entity of its own. The sanjak of Jerusalem was given higher status, and organized as a mutasarriflik - an enlarged administrative unit which included also the sanjaks of Nablus and Gaza and was governed by a mutasarrif. During the Crimean War, this area was elevated for a short time to the status of an independent province, and its governor, a pasha with the rank of vali, was directly responsible to Istanbul. The Ottoman Provincial Regulation of 1876 not only confirmed this reorganization of Palestine, but also incorporated Acre with the Mutasarriflik of Jerusalem.[6]

When in 1517, the Ottoman Sultan, Selim I, put an end to the Mamlûk dynasty, Jerusalem with the rest of Syria passed to the Ottomans who gave the land a new life. One of the most notable of these sultans, Süleyman I (1520-1566) was not only a great soldier, but took a considerable interest in building and Jerusalem benefited from this. Lavish sums were spent on the restoration and maintenance of all holy places, Christian, Jewish and Muslims alike. The Sultan also had the city walls renovated and gave them the form they still have today.[7] Since Jerusalem, due to its international prestige as the holy place common to all the three monotheistic religions, attracted pilgrims and travellers all over the world, the successive Ottoman sultans took great pride in keeping the city in exemplary shape and order. Thus, under the Turkish rule, law and order reigned, and the government administration was properly organized. The population grew and the economy developed.[8]

The status of holy places became, especially since the nineteenth century, a growing problem in the Sultan's relations with the European Powers. Jerusalem had, since the time of the Crusades, been the theatre of operations for missionary societies, religious orders and educational establishments characterized by rivalries among these different denominations. The Ottomans, despite their peace-making efforts among the communities in Jerusalem, inherited such problems. With the nineteenth century, the question of the holy places was carried from the halls of the Divan to the international arena. It is necessary, therefore, to look very briefly into the interests of the Powers in Palestine.

The French connection with Palestine in this respect was the oldest of all European Powers, stretching back to the rule of Francis I.[9] As a result of the privileges granted by Süleyman the Magnificent, France had monopolized the custody of the sanctuaries and the protection of the Latin clergy in its relations with the Turkish Government.[10] The tendency of France to regard itself as the sole protector of Roman Catholic interests in Palestine was reduced when Italy[11] and Germany[12] in the 1880s decided to champion the cause of their Catholic subjects in the Holy Land. In the face of desertions from its protégé system, France could have only retained its prestige by offering better facilities to pilgrims, and occupational services to local converts.[13] This could have been possible with more funds, but the statesmen of the Third Republic did not share Louis Napoleon's religious convictions, nor thought that Christianity was worth exporting. In contrast with the French religious establishment, Russian interests in Palestine were endowed with both resources and government backing.[14] With the Treaty of Kuçük Kaynarca in 1774 the Russians had secured the claim to protect and intercede for the Orthodox Christians of the Ottoman Empire. In 1882 the Russians established, under the presidency of the Grand Duke Sergei, the Imperial Orthodox Palestine Society, whose prima facie aims included helping the pilgrims, the founding of schools, hospitals, hostels, granting of material aid to the local inhabitants, churches, monasteries and clergy, and supporting its creed in the Holy Land.[15] Similar functions were also undertaken by the British, whose mission in Palestine during the last quarter of the nineteenth century was represented by the London Jewish Society and the Church Missionary Society as well as an Anglican Bishopric.[16] The only German interest in Palestine was the Templar (Tempelgemeinde) Society, whose followers were part of the pietistic stream of Protestant theologists who wished to revive the way of the life of the early Christians.[17]

Religious considerations as outlined above were not the only interests of the Powers in the Near East for, more importantly, each had certain strategic, political and economic commitments as dictated by their respective national policies. Considering the scope of this paper, there is no need to go into detail with the policies of the Powers but, nevertheless, it is indispensable to mention the effects of the Capitulations and the protégé system upon the relations between the Porte and the Powers.

One of the most important avenues through which the Powers tried to place Turkey under their tutelage was by the extensive use of the Capitulations.[18] The Turks never had a great disposition towards commercial activities which they considered to be degrading to their chivalric culture. The rationale, therefore, behind the issuing of extraterritorial privileges was to attract foreign merchants and companies to Turkey. This was how the early Ottoman sultans thought they could cultivate the rich economic resources of the Empire. These Capitulations were issued from a position of strength and, as far as the Sultan was concerned, possessed no binding obligations. He had then the power to cancel them altogether. With the advent of the nineteenth century, the Ottoman Empire, having lost its initial vitality, was placed within the pale of the European political system whose more powerful members in 1856 at the Congress of Paris undertook to preserve its territorial integrity. As a result, the Capitulations acquired the features of law, becoming, inter alia, an instrument to exploit Turkey's economic resources on the one hand and to swell the Turkish market with European industrial products on the other.

The most objectionable abuse of the Capitulations, from the Turkish point of view, was the way in which it led to the emergence of the "protégé" (Himâye) system. The protégé system was an institution by which Ottoman subjects could acquire foreign nationality or foreign protection without being required to reside in the country granting the protection, and thereby be entitled to the capitulatory privileges enjoyed by the nationals of the donor country in Turkey. With the nineteenth century, however, the protégé system became very attractive to the non-Muslim subjects of the Empire. First of all, at a time when the Ottomans levied higher taxes to make up for the depleted sources of the Empire, the protégé system proved to be a convenient device in escaping such a burden, for the protégés of foreign powers, according to the Capitulations were immune from the Ottoman fiscal system altogether. Secondly, the protégé system, as far as the non-Muslim subjects of the Sultan were concerned, brought with it an important political advantage. Under the protective wing of the Powers, the nationalist movement within the Empire could afford to become more militant in the pursuit of their separatist ambitions. The Turks thoughts that the extension of the protégé system was a step in the direction of the secession of the territories inhabited by the protected nationals.[19]

The great Powers also reaped substantial benefits from such an alliance with the non-Muslim groups in the Ottoman Empire. First of all, the influence of the West in the Orient had increased. The greater the number of its protégés, the greater would be the concerned country's exploitation of the Capitulations. Secondly, the non-Muslim protégés in Turkey had also provided the great Powers with the pretext to intervene in Ottoman internal affairs. By upholding the so-called rights of the Ottoman minorities, the great Powers more often than not tried to shape Ottoman policies to fit their imperial interests. In Palestine too, the great Powers were exploiting religious differences in order to establish their respective spheres of interest in the region.[20] It was France, as the champion of Catholicism, which placed the Maronites, Jacobites and Uniates under its protective wing, while Britain did the same for the Druze, Protestants and Jews, Germany for the Templars and finally Russia for the Orthodox, Copts and Abyssinians.

Viewed within the context of international politics, Jerusalem appears to be more than an arena of intermissionary activity and struggle between various religious sects. In this connection, the cooperation of the activities of the missions and their Governments was crucial. The Templars, for example, thought that if they could convince the German Government of their usefulness in the cause of the *Drang nach Osten*, then the latter would, in turn, reward them with the material benefits that they had been denied by previous administrations.[21] The British evangelical missions, with the help of Consul Finn, who was a member of the London Jewish Society, had plunged deep into the troubled waters of religion in the Holy Land and attempted to create an English party by issuing certificates of protection to their converts. Policies of one mission caused deep-seated resentment and suspicion to others, the manifestations of which resulted in violent clashes between their followers.[23] When these incidents were communicated to Europe, the Powers came to believe that the other party was harbouring aggressive designs over Jerusalem at their expense.

This belief in the zero-sum-game of Palestinian politics led the European Governments to participate directly in the affairs of the land, trying to redress the balance of power whenever they felt that it was being disturbed by another party. A typical example was provided by he funeral of M. Ledoulx, the French Consul in Jerusalem. "The feeling that Latin interests have for some time been giving way to those of the Greek Church, and that French prestige has been losing ground whilst Russian influence has been on the increase, caused the French clerical party, supported by the Franciscan monks and the Roman Catholic community in general, to avail themselves of the death of the French Consul-General for making as great a religious demonstration and display as was possible".[24] It was true that Russia managed to "destroy the influence in Palestine of the Greek Ecumenical Patriarch of Constantinople, and to put that of Russia in its place"[25] and in doing so, enhanced its political influence in the area. A British official wrote from Damascus that "Russian influence gains in strength almost daily, and it would hardly be an exaggeration to say that steady and persistent efforts are being made to "Russianize" the Greek Orthodox community in this province".[26] These proceedings of Russia seriously occupied the attention of the French Government, which believed in the "*importance du protectorat religieux pour le prestige de la politique française*".[27] As observed by the British Consul at Jerusalem, the "establishment by Jesuits of a medical school at Beirut is no doubt a countermove to Russian scholastic activity".[28] Both the Russians[29] and the French[30] were worried about increasing German activities in Palestine. The Templars were believed to be the "outposts of Teutonism, whose services to the Fatherland were harnessed by the Wilhelmstrasse to further Germany's political and economic penetration into the Middle East".[31] International rivalry was so intense in Palestine that even allies like France and Russia could not form, at the suggestion of Mouravieff,[32] the Russian ambassador in Istanbul, a common front against their mutual enemy, Germany.

International rivalry in Jerusalem was bound to arouse the suspicion of the Turkish rulers, whose prime consideration was to preserve the territorial integrity and political sovereignty of the Ottoman Empire against the incursions of the European Powers. The sultans knew that the rivalries among the Powers in the Middle East and their lack of consensus with respect to the fate of Turkey prevented the impending partition of the empire, but they realized that they could not rely on external factors for the well-being of the country. Thus, from the second half of the nineteenth century, the Ottoman rules carried out an extensive reform programme with the aim of modernizing their declining empire. The rationale behind the *Tanzimat* reforms was to curtail, if not entirely terminate, foreign intervention in the affairs of the Sultanate.[34]

Before the *Tanzimat*, the Porte delegated its power to the leading families in the provinces. With the decline of the central authority to supervise their affairs, these local notables (*esraf* or *âyan*) assumed feudal prerogatives, taxing and policing the region at their will, a practice which caused great discomfort to the populace at large. Thus, the successive reforms initiated in the second half of the nineteenth century aimed in principle to establish the democratization and secularization on the one hand, and the centralization of the Ottoman administration on the other. The Porte centralized control over its civil servants in Palestine, establishing direct lines of communication between them and Istanbul. The Turks also insured that Jerusalem was filled with able, honest and efficient personnel. Associated with the governor (*mutasarrif*) were administrative departments whose officials, such as the provincial accountant, public works supervisor and the judge, were appointed by Istanbul and were responsible to their superiors in the capital. The activities of the different departments in Jerusalem were coordinated by the Administrative Assembly, consisting of the *mutasarrif*, department heads and six representative members, three Muslims and three non-Muslims, elected from among the inhabitants. Moreover, advisory councils were formed to introduce the elective representative principle into the functioning of local government, for the first time in the history of Palestine under Turkish rule. The Provincial General Assembly of Jerusalem was composed of a combination of two Muslims and two non-Muslims elected by the Acre, Nablus, Beirut and Jerusalem. Convoked by the governor, the Assembly was charged with matters related to the construction and the upkeep of roads and bridges, tax collection, improvement of agriculture and commerce in the region. At the lowest level, the Council of Elders, one of the oldest representative organs in the Ottoman Empire, was retained. Each *millet* in the village elected its own Council and a headman, the electors consisting of male Ottoman subjects over the age of 18 who paid a specified sum in direct taxes annually.[35]

The new provincial system also brought some improvement in the distribution of justice in the provinces. Palestine shared with the rest of the country the most characteristic tenet of the Ottoman judicial system: its lack of unity.[36] There were at least four court systems operating at the same time supervised by different governmental authorities. While the consular courts had jurisdiction in trade disputes involving their own subjects and other matters reserved for them by the Capitulations, the non-Muslim subjects of the Crown had their own *millet* courts, to arbitrate disputes that might arise within their communities. Muslims had their own *Seriat* (Shariah) court, based upon the legal precepts established by the *Qu'ran*, and directly responsible to the office of *Seyhülislam* in Istanbul. To put an end to this state of judicial anarchy, the *Tanzimat* introduced the *Nizamiye* courts which aimed to set the standards and procedures in the criminal and civil courts for all Ottoman subjects, irrespective of their creed and nationality. Although the minorities and their Christian patrons refused to adopt the new system, it was nevertheless true that the judicial improvements in Palestine as well as in other sections of the Empire did materialize.

Effective measures of public security were also introduced.[37] Keeping peace and order in Palestine and Syria was the duty of the Fifth Army, called the Army of Arabia, based at Damascus. In line with the centralizing tendencies of the Sultan, Abdulhamid II, these forces were placed under the command of a field marshal who was appointed by and responsible to the War Ministry at Istanbul, thus completely ending the governor's control of the military forces within his domains. The Fifth Army, thanks to the modernizing efforts of the Sultan, was better organized and equipped than before in so far as financial stringencies permitted. The Sultan, however, was not going to be content to rely on the regular army to prevent or suppress any upheavals that might occur which would lead to general intervention on behalf of the Powers. When Muslim refugees in the face of growing repression in the Balkans and Russia fled to Turkey, the Sultan settled them in the valley of Hauran and organized them as a militia force.[38] The Sultan knew that the local gendarmerie formed by the Muslims would be the most effective way of suppressing any disintegrating tendencies among the various minority groups in Palestine. It was obvious that the Muslim refugees, living with the memories of how their loved ones had been murdered and their homes and properties stolen, would not be accommodating towards the ambitions of their persecutors' co-religionists in Palestine. The Muslim militia proved itself to be so effective a deterrent to possible breaches of peace that the British consul at Jerusalem wrote that "more readiness was manifested on the part of the police to cope with evil-doers and to maintain order".[39]

Finally, certain steps were taken to improve the province in the economic sense. First of all, model farms were established in arable districts as experimental stations to demonstrate new techniques of cultivation and use of equipment. Considering the importance of trade and commerce in the prosperity of a region, Abdulhamid II, the Sultan, granted a concession to a French concern, *Chemin de fer de la Palestine*, in 1888, to build railways between Jaffa and Jerusalem, Haifa and Jaffa. Before this line was actually completed in 1892, similar concessions were made to the French to link Palestine with Beirut, Damascus and Aleppo, all of which opened their services to freight and passengers no later than 1906. Abdulhamid II also made it clear to the Germans that both the Berlin-Baghdad and the Hejaz railways should establish subsidiary connections with Palestine. As a result of these efforts, Jaffa and Haifa prospered as commercially successful ports, opening Syrian and even Arabian markets to European customers. Exports consisting of oil, wine, cereals, citrus, sesame, tobacco and silk from Palestine were shipped to most European countries, yielding a substantial profit to the local producers and revenue to the Ottoman economy. To organize and improve commercial transactions, chambers of commerce were founded at Beirut, Jerusalem, Jaffa and Hauran as early as 1880, to be followed by banks. The Imperial Ottoman Bank was formed in 1887 with French capital, opening branches at Haifa, Beirut, Hama, Homs, Jaffa, Jerusalem and Saida, whilst its German counterpart, the *Deutsche Palestina* Bank was established in 1889 with branches at Beirut, Damascus, Gaza, Haifa, Jaffa, Jerusalem, Nablus and Nazareth. Economic activity was in such a flourishing state that Palestine during the entire reign of Abdulhamid II and of Resad never faced a deficit in its provincial economy. On the contrary, the financial situation in Palestine contrasted very favourably with that of the Empire as a whole, with the revenues constantly exceeding the expenditures necessary for the maintenance and improvement of the province.

As an overall view, one can confidently state that Jerusalem and environs under Ottoman administration was in process of gradual improvement in the various spheres of life: religious, economic, political and physical security.[40] The British Foreign Office commented with surprise, and perhaps with considerable regret, that "taken as a whole the (Turkish) regime in Palestine marked imperial progress, and is open to less criticism than elsewhere in Turkey. There were, of course, bad[41] features - the same nervousness of foreign encroachment as in other provinces, the same suspicious and jealous system of administration. But there was no general sense of oppression and terror".[42]

Suspicion of European encroachment was not the only apprehension entertained by the Ottomans in the late nineteenth century. Palestine in the 1880s also became the focus of Zionists who were aiming to deliver their followers to the Promised Land. Their leader, Theodor Herzl, admitted that the "decision is in the sole hands of His Majesty the Sultan".[43] His strategy to convince the Sultan was to make him a financial offer he would not dare to refuse. Herzl came to Istanbul in the middle of June 1896, and requested the Sultan to issue a Charter, enabling the Jews to colonize Palestine in return for 20 million pounds. Sultan Abdulhamid II, however, was adamant. He told Herzl "not to take another step in this matter. I cannot sell even a foot of land, for it does not belong to me, but to my people".[44]

Upon the emergence of the Zionist movement in Europe, the Ottoman ambassadors were alerted to these disconcerting developments. The Ottoman ambassadors at Berlin (Ahmed Tevfik Pasha) and Vienna (Mahmud Nedim Pasha) not only interviewed Herzl and other Zionist notables, but also sent agents to the congresses to obtain healthy information respecting the ultimate aims of the Zionists. In a detailed report to the Porte, Ahmed Tevfik Pasha wrote on 17 August 1900 that "we must have no illusions about zionism. Although the speakers at the Congress dwelled upon vague generalities such as the future of the Jewish people, the Zionists, in effect, aim at the formation of a great Jewish State in Jerusalem and environs, which would also spread towards the neighbouring countries". According to the Ottoman ambassador, the Zionists would use a Judaized Jerusalem as a base for their future expansionist activities.[45]

Ahmed Tevfik Pasha's worries fell upon sympathetic ears in Istanbul. Abdulhamid worried that, by allowing the Jews in Jerusalem, the Turkish Government would sign the death warrant of its Arab co-religionists, since the new settlers would, in no time, gather great power in their hands and use it against their Arab hosts.[46] The Porte stressed that it "does not desire to sell any part of its Arabian country, and no matter how many millions of gold are offered this determination will not be altered".[47] Instead, the Porte came to believe that the "time has come for His Majesty to take certain measures to repair the fault which his ancestors had committed by allowing the non-Muslim communities to settle in Palestine".[48] The Ottomans were determined to preserve the dominant Muslim and Arab characteristics of Jerusalem and Palestine. Thus, the Ottoman Government should to the best of its efforts prevent Jewish immigration and settlement in the mutasarriflik of Jerusalem. A series of "entry restrictions" were immediately imposed, and those Jews who managed to penetrate the country were denied ability to acquire land, either urban or rural.[49] These restrictions were kept in force by the Young Turks even after the fall of Abdulhamid II until 1917, when Palestine passed to the hands of the British.

In the light of evidence drawn mostly from Turkish and Western sources, it appears that, under the Ottomans, Jerusalem was a "city of peace" characterized by public security and prosperity. Jerusalem, of all the provinces that fell to the Turks - with the possible exception of the Hejaz lands - commanded a special place in the eyes of its rulers. As faithful Muslims, the sultans were extremely keen to preserve the city to match the dignity of the Aksa and the Omer Mosque. Moreover, knowing the Jerusalem was the home both for Christianity and Judaism, Turks also took great pride in keeping these sanctuaries in good order and in providing free access to their followers. Nevertheless, weary of Western involvement in their internal affairs, the Turks had no tolerance for European meddling with the affairs of missions. Most of the improvements introduced in the nineteenth-century Jerusalem sprang from their determination to curb, if not completely dissociate international rivalry among the Powers over Palestine. The regional history of Jerusalem was the history of a tug of war between the Porte, which wished to maintain the native Muslim predominance in Jerusalem, and the Powers, who were craving to place the city under their respective spheres of interest. The Ottoman struggle to uphold Jerusalem's Muslim character in the late nineteenth and early twentieth centuries also involved an effort to stop Zionist settlement and immigration in Palestine. It was true that the Ottomans, though they formulated exceptional restrictions against the Zionists, feared the Judaization of Jerusalem more than they had Western influence. Abdulhamid II admitted in 1911 that the efforts of the Zionists in Palestine were just an introduction preparing the groundwork for accomplishing their ultimate goal: "I am sure that with time, they can and they will be successful in establishing their own State in Palestine".[50]

Notes

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4/ Ibid., pp. 279-280.

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34/ The Ottomans' views were clearly illustrated in the Grand Vizier's book: Khayr al-Din al-Tunis (transl.) The Surest Path, (Massachusetts, 1967).

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41/ Sic!

42/ [Great Britain] Her Majesty's Stationary Office, Handbooks on Syria and Palestine, 1920, p. 45. A similar view could also be found in A Handbook of Syria Including Palestine, prepared by the Geographical Section of Naval Intelligence Division, Naval Staff, Admiralty, London, n.d. [1902?].

43/ There is no need to go into detail about zionism. On the growth and development of zionism, there are numerous studies in English, the most up to date and definitive ones being David Vital's The Origins of Zionism (Oxford, 1965) and Zionism: The Formative Years (Oxford, 1982).

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45/ DBHE, 332/17, No. 1683/136, Ahmed Tevfik Pasha to Tevfik Pasha, Berlin, 17 August 1900.

46/ Abdulhamid II, Siyasi Hatiratim, (Istanbul, 1975), p. 76.

47/ Dbhe, 332/17 No. 9796/34, Ali Ferruh to Tevfik Pasha, Washington, 5 May 1899,

48/ Ibid., No. 9550/63, Ali Ferruh to Tevfik Pasha, Washington, 29 April 1898; BA, YPA C II/1325/120/5.

49/ For more information on the Ottoman policies against the Zionists, see my paper entitled "The Ottoman Empire, zionism and the question of Palestine 1880-1908", in International Journal of Middle East Studies, vol. 14/3 (1982), pp. 329-341.

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H. JERUSALEM FROM THE STANDPOINT OF THE HISTORIC RIGHT AND PRINCIPLE OF SELF-DETERMINATION

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"For the second time, Israel has conquered Palestine, the land of the Philistines. It is curious to note that the various phases of this second conquest present many similarities with the events at the time of the patriarchs, Joshua and David. First of all, there is the peaceful infiltration of isolated families, the purchase of land, coexistence with the inhabitants of the country, followed by mass immigration, consolidation of positions acquired, and lastly, military conquest of the whole country. Over a span of three or four millenia, history repeats itself."

It is in these terms that Carl Keller, professor of the Old Testament and history of religions at the University of Lausanne, examined the relationship between the beginning of the conquest of Canaan in the thirteenth century B.C. and the spectacle which is now taking place before our very eyes in Jerusalem - the centre of convergence of the three monotheistic religions and "land of peace". In their appeal to the Christian conscience, the Eastern patriarchs, meeting at Damascus in May 1971, declared that "the aim - sometimes acknowledged, sometimes disguised - of zionism is to suppress the heritage of Palestine in general and of Jerusalem in particular, which were the cradle of civilization in its two forms, human and superhuman, and to turn the land into a racist and religious State".

At its thirtieth session, the United Nations General Assembly established, by its resolution 3376 (XXX), the Committee on the Exercise of the Inalienable Rights of the Palestinian People, and defined the terms of reference of that Committee in paragraphs 5 and 6 of resolution 31/120. In pursuance of the resolution, which requested that seminars be organized on the question of Palestine during the 1982-1983 biennium and since this eighth seminar should be devoted to the overall problem of Jerusalem viewed in its historical, juridical, political and human aspects, we shall try to focus our contribution on the status of Jerusalem from the standpoint of the historic right and the principle of self-determination embodied in international law.

Three essential facts should be considered first before examining the status of Jerusalem:

(a) The problem of Palestine cannot be dissociated from the general problem of Palestine from which it arises;

(b) It cannot be regarded in terms of the ancient city, occupied from 1948 to 1967 by Jordan, and the new city, occupied by Israel during the period and later, when it conquered the ancient city and the rest of Palestine. It may be recalled that, in resolution 181 (II) of 29 November 1947, whereby the General Assembly recommended that Israel should be established as a corpus separatum, the city was defined as including the present municipality of Jerusalem plus the surrounding villages and towns of Abu Dis, Bethlehem, Ein Karim and Shu-fat;

(c) Lastly, the problem of Jerusalem cannot be viewed as a problem of religious conflict over the Holy Places. The above-mentioned resolution 181 (II), in enumerating the extensive powers of the government and administration of Jerusalem, had guaranteed religious rights, minority rights and property rights.

Let us briefly examine first of all the claim of the historic right of "biblical right" invoked by the Government of Tel Aviv for the annexation of Jerusalem. By virtue of that right, it proclaims that "Jerusalem was and remains the unified and eternal capital of Israel". In reality, that right is no more than a myth, according to the words of Pastor Georges Pidoux, former professor of the Old Testament in the faculty of theology of the University of Lausanne, who adds, "Fanaticism, like racism, feeds on myth. In the case of Israel, this is not difficult to demonstrate. What is serious, however, is that myths are like a neurosis which no reasoning can cure".

In evoking the "Promised Land", the land of Canaan, to the Jewish people, the "chosen people", the Zionist movement has claimed that it was King David 3,000 years ago who built Jerusalem after his victory over the Jebusites. However, history - or more accurately, pre-history - gives the lie to that claim following the latest archaeological discoveries, which have proved that Jerusalem existed some 2,000 years before Christ, in other words, about a thousand years before the arrival of David. John Gray, professor of Hebrew and Semitic languages at the University of Aberdeen, relates in his History of Jerusalem that the first historical documents mentioning Jerusalem are texts written in hieratic hieroglyphs found at Luxor in Upper Egypt. They date from the nineteenth century B.C.

According to those documents, the Jebusites, Canaanite tribes that had emigrated from the Arabian peninsula, had built Uru-Shalem, the name given to Jerusalem and signifying "house of peace". From the time of the Arab king Malki Sadek in the nineteenth century B.C., the city experienced tremendous growth. It was the period of Abraham and the third dynasty in Egypt. The pharaohs maintained trade and political relations with all the countries of the region, and Egypt had a profound influence on the land of Canaan (Palestine). Jerusalem, its capital, was known well before the arrival of the Israelites in

Canaan. It is mentioned in the texts of that period. We know of some of its kings, including Malki Sadek and Abdi Hiba, who allied himself with Egypt and called on the Pharaoh Amenophis IV for help against the Hapiru invaders from Transjordan. "Hapiru", in the Canaanite language, meant "country people", from which was derived the name "Hebrew" given to the Jews.

Jerusalem subsequently passed under the Amorite dynasty, and it was not until the thirteenth century B.C. that the Amorite kingdom was attacked by the Jews under the command of Joshua. The King of Jerusalem at that time was Adoni Sadek and was allied with four minor kings of the land of Canaan. The battle went in Joshua's favour and the five kings were put to the sword. But Jerusalem did not fall into the hands of the invaders. Neither did it fall into the hands of the Judges, because its inhabitants were able to hold out after barricading themselves on Mount Zion.

For more than three centuries after the reign of Joshua, the attacks against Jerusalem continued ceaselessly and it was not until the year 1000 B.C. that David entered Jerusalem through cunning much more that through conquest, since he had previously been in the service of the Amorite kings and had learned their methods of combat. Having become King of Israel, after the death of Saul, David achieved resounding victories against the Philistines. He chose for himself another capital, Sichem, and found in Jerusalem an Amorite population, a considerable number of them having remained after the conquest. Thus, the Israelites did not reach Jerusalem until 2,000 years after it had been founded.

We turn now to the invasions which took place before and after David and which were of short duration. Jerusalem was, in fact, invaded and destroyed 16 times in the course of its history. Its Canaanite - and therefore Arab - population remained and constituted the majority. At the time of David, the Jews were in the minority, although they had established their authority over the city. Neither David nor King Solomon sought to Judaize the city. The latter had the Temple built which bears his name.

The pharaohs of the twenty-second dynasty began to attack the kingdom of Judea after the death of Solomon in 931 B.C., following the divisions which had occurred in that kingdom. Then came the turn of the Assyrians, the Persians and others. The Kingdom of Israel enjoyed peace for only 70 years, and experienced the vicissitudes of fortune until its final collapse. After many wanderings, disasters and the deportation of Israelite kings and leaders, particularly to Babylon, Persia and Mesopotamia, Jerusalem was captured by the Assyrian King Nebuchadnezzar in the sixth century B.C., its kind was deported, his sons were beheaded and the Temple of Solomon was destroyed in 587. The population was also deported and that was the origin of the diaspora. Thus, the Kingdom of Israel and that of Judea, the outcome of a split, collapsed.

After conquering Jerusalem, Cyrus, King of Persia, in 538 B.C. invited the Jews who had been deported to Mesopotamia to return to the ancient city, which had been rebuilt. Only a few thousand, coming from Babylon, accepted, whereas members of a prosperous Jewish community preferred to remain where they were. Indeed, it was in Babylon that the Hebrew scribes composed the definitive text of the Torah.

Jesus Christ was born in Jerusalem, and it was within its walls that the new message resounded, following the example of the messages brought previously by dozens of prophets. The Holy City changed hands after the advent of Christianity. The Eastern Church was established at Jerusalem, where there were few Jews and where virtually all that was left was the Wailing Wall beside the churches and temples that were built and which remain to the present day.

Fifteen years after the death of the prophet Mohammed, the second Caliph Omar-Ibnu Al-Khattab received from the hands of the representatives of the Eastern empire of Constantinople the keys of Jerusalem without a shot being fired. Thus, the Holy City returned to its Arab origins. Abdulmalek-Ibnu Marwan, the Ummaya caliph, built the Al-Aqsa mosque beside the dome of Al-Haram Al-Ibrahimi. There was an interruption of one century in which Jerusalem was besieged by the crusades until the time when Salah Addin Al-Ayyubi defeated them at Hittin and liberated the Holy City in 1187. It retained its Arab character under the Ottoman Empire, which succeeded the Arab caliphate. As Palestine was part of that empire, the Palestinians, on the same footing as the other Arabs of the Middle East, were full citizens enjoying the same rights as the Turkish citizens and shared with them sovereignty over all the provinces of the empire. Thus, the sovereignty of the Palestinian people was exercised continuously over Jerusalem until the establishment of the British mandate over Palestine.

Before the end of the First World War, Palestine was invaded by British forces and detached from the Ottoman Empire to be administered by the Government in London. Jerusalem became the capital of Palestine. Following peace negotiations, Palestine was placed under a League of Nations mandate with Great Britain as the mandatary Power, and the text adopted by the Council of the League of Nations on 27 July 1922 assumed force of law in September 1923. Although the Palestinian people have been ignored in the international debate on the fate of their country, the Covenant of the League of Nations in article 22, paragraph 4, stipulated:

> "Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by the Mandatary until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatary."

Under the terms of that article, the fact that a mandate had been assigned to a mandatary Power to administer Palestine did not affect the identity of that country and did not divest the Palestinian people of their sovereignty over their territory. "The rights to sovereignty are enjoyed in fact and no in theory by the societies in the mandated territories", stated E. Pélichet (in La personnalité internationale des collectivités sous mandat). Consequently, the mandatary Power acquires no attribute of sovereignty over the country under its mandate. With regard to the international status of South-West Africa, the International Court of Justice is as explicit as can be when it declares that the mandate implies neither the cession of territory nor the transfer of sovereignty.

Thus, there is no doubt that sovereignty over Jerusalem as an integral part of Palestine has belonged to the Palestinians since the seventh century and during the Ottoman period. That sovereignty, although not respected by the mandatary Power from 1922 to 1948, has not been formally affected by the detachment of Palestine from Turkey. It was, however, sorely tested as a result of the Israeli invasion.

At the request of the Government of Great Britain, the problem of Palestine was in 1947 brought before the United Nations, which concluded by partitioning Palestine into two independent States, Arab and Jewish, and by internationalizing Jerusalem under General Assembly resolution 181 (II) of 29 November 1947. As in the case of the establishment of the Mandate, neither the Palestinian people nor even the population of Jerusalem, participated either in the debate or the decision concerning internationalization. Nevertheless, resolution 181 (II) did not confer on the United Nations sovereignty over the Holy City. Neither did it divest the Palestinians of their sovereignty over Jerusalem. "The legislative and fiscal powers as well as the judicial power, which are the attributes of sovereignty, were reserved for the inhabitants". An example is provided by the city of Tangier, which, although subject to an international, six-Power regime, remained under the sovereignty of the Sultan of Morocco even when that country was a protectorate.

The clauses of the new statute of Jerusalem provided for its establishment as corpus separatum under special international regime administered by the United Nations. The Trusteeship Council was designated to discharge the responsibilities of administering the city. However, neither the Trusteeship Council nor the General Assembly could implement the statute, because of the opposition - each party acting for its own reasons - of Jordan and Israel to internationalization. For their part, the Arab States and the High Arab Committee for Palestine rejected resolution 181 (II), declaring that the United Nations had exceeded its competence by deciding on the partition of Palestine.

The subsequent course of events is well known: it ended in the occupation by the Israeli Haganah of the new city of Jerusalem, while the Jordanian Legion took possession of the old city; this situation lasted until 1967. Israel took over jurisdiction of the part of Jerusalem which it had conquered, while Transjordan became the Hashemite Kingdom of Jordan. Thus, Jerusalem remained divided for about two decades instead of being international in accordance with the wish of the General Assembly. The internationalization was not, however, rescinded. On the contrary, it was reaffirmed by the Assembly in its resolution 194 (III) of 11 December 1948 and 303 (IV) of 9 December 1949. Both the Assembly and the Security Council continued to draw attention to the international status of Jerusalem in their subsequent resolutions concerning that city.

From 7 June 1967, after the outbreak of the Six-Day War, Israel occupied East Jerusalem and extended its legislative measures to that part, thereby giving advance indication of its intention to annex it. That stand was reinforced by measures of a municipal nature, the most notorious being the demolition of the historic Maghreb Quarter situated in front of the Wailing Wall. Furthermore, the Government at Tel Aviv did not hide its intention to annex Jerusalem on the pretext of the historic or biblical right to restore the capital of David and Solomon, a right the futility of which has been proved.

When, however, we examine the claim of the Zionist theoreticians, we feel obligated to emphasize that the Jews who emigrated to Palestine during the period of the British mandate and who were for the most part the promoters of the creation of Israel, are not descendants of the biblical Jews, but converts to Judaism who exploited religion for political and nationalist ends.

Immediately after the Six-Day War, the General Assembly adopted on 4 and 14 July 1967, resolutions 2253 (ES-V) and 2254 (ES-V), in which it considered that all measures taken by Israel were invalid and called upon Israel to "rescind all measures already taken and to desist forthwith from taking any action which would alter the status of Jerusalem". The Security Council, for its part, condemned Israel on several occasions and called for the rescission of measures altering the status of the Holy City. In the well-known resolution 242 (1967) of 22 November 1967, it emphasized "the inadmissibility of the acquisition of territory by war" and called for the withdrawal of Israeli armed forces" from the occupied territories. The same call was reaffirmed by the Security Council in its resolution 267 (1969) of 3 July 1969, after having censured "in the strongest terms all measures taken to change the status of the City of Jerusalem". The Council reiterated its call in vain in resolutions 465 of 1 March 1980 and 476 of 30 June 1980.

Since Jerusalem (Al-Quds) is the clear custodian of the spiritual heritage of the three monotheistic religions, the fire which was set in the Al-Aqsa Mosque on 21 August 1969 aroused the indignation of the Islamic world and led to the birth of the organization bearing its name.

The Organization of the Islamic Conference, it its first summit meeting, held in September 1969, solemnly proclaimed that the Islamic Government and peoples resolutely rejected any solution to the problem of Palestine that refused to restore Arab sovereignty over Jerusalem. since its establishment, that Organization has adopted resolutions declaring null and void all measures of judaization which had been implemented in the Holy City and which had culminated in its annexation on 30 July 1980.

The Sixth Conference of Ministers for Foreign Affairs, meeting in July 1975 at Jedda, decided to establish the Al-Quds Committee comprising elected representatives of 14 Islamic countries and to institute a fund to promote action to safeguard the Arab character of the Holy City. At the Tenth Islamic Conference, held at Fez in May 1979, the chairmanship of the Committee was unanimously assigned to His Majesty Hassan II, King of Morocco.

Since then, the Al-Quds Committee, under the chairmanship of the Moroccan sovereign, has held seven meetings at the level of ministers for foreign affairs. The latest was its culmination, since it also included the Committee of Seven set up at the Twelfth Arab Summit Conference held at Fez in September 1982, which adopted the well-known Arab Peace Plan[1] for a just solution of the problem of Palestine. The Moroccan sovereign thus wished to have the Islamic world join with the Arab world in order to propose a comprehensive and just solution to the thorny problem of Palestine and Jerusalem.

The action of the Al-Quds Committee over the past five years has taken place at three levels - Arab, Islamic and international. It has tackled the various aspects of the problem and has helped to promote the world-wide awareness of the gravity of the problem, the adoption of positions favourable to the cause of Palestine and the increasing international isolation of Israel.

None the less, the Zionist entity, because of its annexationist nature and its methods that recall the era of terrestrial conquest by armed force, continues to ignore international opinion expressed in resolutions of the United Nations and its competent bodies and in resolutions of other international organizations, and the positions taken by various Governments or groups of States. Relying solely on brute force, Israel persists in the conquest of new Arab territories with a view to annexing them as an ultimate step.

The annexation of Jerusalem following the adoption by the Israeli Knesset of a "basic law" making Jerusalem the "unified and eternal capital of Israel" was the subject of Security Council resolution 478 (1980) of 20 August 1980, in which the Council:

> "1. *Censures* in the strongest terms the enactment by Israel of the 'basic law' on Jerusalem and the refusal to comply with relevant Security Council resolutions;
>
> "2. *Affirms* that the enactment of the 'basic law' by Israel constitutes a violation of international law and does not affect the continued application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian[2] and other Arab territories occupied since June 1967, including Jerusalem;
>
> "3. *Determines* that all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent 'basic law' on Jerusalem, are null and void and must be rescinded forthwith;
>
> "4. *Affirms also* that this action constitutes a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;
>
> "5. *Decides* not to recognize the "basic law" and such other actions by Israel ... and calls upon:
>
> (a) All Member States to accept this decision;
>
> (b) Those States that have established diplomatic missions at Jerusalem to withdraw such missions from the Holy City;
>
> "..."

It is obvious that the occupation and annexation of Jerusalem violate United Nations resolutions. Israel cannot with all impunity acquire rights and achieve territorial gains by infringing United Nations resolutions, particularly General Assembly resolution 181 (II), to which it owes its existence.

It is accordingly well established that an occupying Power acquires no attribute of sovereignty over the occupied territory and that "its occupation does not annul the sovereignty of the legitimate sovereign".

That principle, which corroborates that of the self-determination of peoples, has become one of the fundamental rules of international law since Nice and Savoy were finally reunited with France in 1860 following a plebiscite by their population and by virtue of the Treaty of Turin.

The First World War gave a new impetus to the principle of self-determination and led to a decline in the practice of acquisition of territories by hostilities and the use of force. President Wilson solemnly proclaimed the principle in his speech of 8 January 1918 when presenting his 14-point peace plan. The principle of the self-determination of peoples was explicitly enunciated by the signatory Powers to the 1928 Pact of Paris in these terms:

> "Conquest has ceased to be means of acquisition of territories since the general prohibition of the resort to force."

The Atlantic pact solemnly proclaimed in August 1941 also prohibited the acquisition of territory by military conquest, and that principle was embodied in Article 2 of the Charter of the United Nations.

It is through the application of that principle and the principle of self-determination that the existence of Poland as a State was restored despite the occupation and annexation of its territory from the end of the eighteenth century until 1919. It was the same in the case of Ethiopia after its conquest and annexation by Italy in 1936, Austria after its invasion and annexation by Nazi Germany, and so on.

By annexing Jerusalem through conquest and the use of force, Israel infringes one of the fundamental principles proclaimed by the United Nations and which forms the basis of international security. In doing so, it deliberately violates the Charter of the United Nations and calls into question one of the foundations of international law.

Thus, we may state in conclusion that:

(a) The annexation of Jerusalem by Israel is a violation of the principle of self-determination. It was undertaken on the basis of a myth which stands up neither to historical reality nor to international law. Like all myths, it is deceptive and lingers on. It shall constantly be reiterated that Jerusalem was built by the Jebusites, an Arab tribe, and has always been the capital of Canaan (Palestine);

(b) The right of sovereignty over Jerusalem with its two parts, East and West, belongs to the Palestinian people who, to the exclusion of all other parties, are masters of their own territory. Apart from several periods limited in time and space, the Palestinian people have always enjoyed sovereignty over Jerusalem. Furthermore, they have always rejected the *faits accompli* imposed from outside;

(c) Any solution to the question of Palestine, including the problem of Jerusalem, behind the backs of the Palestinian people, is contrary to the principles of international law and consequently null and void. The same therefore applies to the internationalization of Jerusalem, which was decided without the Palestinian people having taken part in the debate and the decisions. The same goes for the annexation of Jerusalem by Israel: that measure is bereft of legitimacy, because it is the outcome of military conquest. The other measures resulting from that conquest and aimed at changing the specific nature of the Holy City, expropriating land and establishing settlements, are null and void;

(d) The status of Jerusalem, based on the resolutions and decisions of the international community, may be envisaged only in accordance with two criteria:

(i) The return to the interim situation of the Holy City before the Six-Day War that erupted on 5 June 1967;

(ii) The return to international status on the basis of General Assembly resolution 181 (II), with the creation of two States, Arab and Jewish.

Those two solutions, having been rejected by the Palestinian people on the basis of the above-mentioned considerations, only a solution based on the self-determination of the Palestinian people is valid. That implies the rescission of all measures which contravene that principle and, in particular, the return of the Palestinian people to their territory in order to exercise their right to self-determination in full freedom and to determine the status of Jerusalem.

Notes

1/ A/37/696-S/15510, annex.

2/ United Nations, *Treaty Series*, vol. 75, No. 973.

IX. NINTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE

(14-17 August 1984,
Tunis, Tunisia)

A. THE STATUS OF THE HOLY CITY OF JERUSALEM

Bulent Akarcali
(Member of Parliament, Turkey)

Al-Quds al-Sharif is a unique city which is sacred for three monotheistic religions, respectively Judaism, Christianity and Islam. For the almost 1.5 million believers of these three religions, Jerusalem has always been a focus of deepest religious inspiration and attachment.

For Turkey, this attachment stems from a solid historical association and religious ties. Indeed, Muslim rule over this holy city lasted almost 13 centuries and Turkish rule specifically for 8 centuries. Caliph Omar entered Al-Quds in 638, Salah-el-Din recaptured this city in 1187 following brief Crusader sovereignty and, in 1517, this holy city became a part of the Ottoman Empire during the reign of Sultan Yavuz Selim, who built the walls surrounding the city which still embellishes Beit-ul Maqdis. And ever since, we have been the custodians of Al-Quds and its holy places and have resolutely defended their Arab and Islamic character. This attitude has become an inseparable part of our unfaltering support of the Arab cause.

Conscious of the importance of Al-Quds for the adherents of other religions, the Muslims and Ottomans, from the very first day, showed great tolerance and bestowed freedom of worship.

Later on, the Ottomans, as a result of the special significance they attributed to Jerusalem and Palestine as a whole, so jealously protected, the Arab and Muslim character of these holy places, even at difficult times, and so strongly resisted all attempts and pressure to induce them to allow Jewish immigration to these sacred territories that their rule constitutes a glorious chapter in the annals of the history of the Turkish nation.

Moreover, in 1754, by a firman of the Ottoman Sultan, a special autonomous status was granted Jerusalem, especially with regard to the holy places. This status has since constituted the main basis for the designation of holy places. Indeed, the first pertinent United Nations resolution, General Assembly resolution 181 (II) of 29 November 1947, which recognized Jerusalem as a corpus separatum under an international regime compatible with its historical and religious significance to the world, must have been inspired by the special autonomy the Ottomans gave to Al-Quds al-Sharif.

In our opinion, the only legal status which Jerusalem possesses today is the one laid down in resolution 181 (II). Yet, to our dismay, this status has been severely damaged by the policies and acts perpetrated by Israel.

Following the occupation of West Jerusalem in 1948 and the eastern part in 1967, Israelis not only proceeded with transformation of the city's demographic composition, physical features, institutional structures and historic character by establishing settlements, annexation and enlargement of the municipal boundaries of the city, but also took other measures in violation of the city's legal status. In addition to excavations held around the Haram al-Sharif of the Al-Aqsa Mosque and Kubbet-us Sahra (Dome of the Rock), Israel perpetrated various acts of desecration and criminal sacrilege against the places. These unfortunate developments have provoked enormous indignation and affected Turkey as deeply as the rest of the Islamic world.

We follow with grave concern the assaults on the blessed Al-Aqsa Mosque and the other Islamic holy places in Al-Quds and the faits accomplis perpetrated by Israel with a view to altering and effacing the Arab and Muslim character of the Holy City of Jerusalem in disdain for the sentiments of the Islamic world and in defiance of all human values. We consider these acts as flagrant intentions to destroy the Islamic sites of worship in Jerusalem.

Furthermore, Israel's adoption of the Basic Law, which declared Jerusalem as its eternal capital in July 1980, caused great abhorrence and revulsion in Turkey and, aware of our historical sense of responsibility for the Holy City, we clearly expressed our protest to the said declaration by demoting the level of our diplomatic relations with Israel.

The Israeli policy was also insistently condemned at the international level and regarded as an aggression and flagrant violation of international law and the United Nations resolutions that provided an international regime for Jerusalem.

The most recent examples of such condemnations are the articles of the Fez Arab Peace Plan,[1] adopted in September 1982, and the Geneva Declaration on Palestine,[2] adopted at Geneva in September 1983, which emphasized "the need to reaffirm as null and void all legislative and administrative measures and actions taken by Israel, the occupying Power, which altered or purported to alter the character and status of the Holy City of Jerusalem, including the expropriation of land and property situated thereon and in particular the so-called Basic Law on Jerusalem and the proclamation of Jerusalem as the capital of Israel".

Unfortunately, in utter defiance of international law and United Nations resolutions, Israel still persists in pursuing policies of occupation, aggression, expansion, establishment of illegal settlements in Jerusalem and in the occupied territories as a whole. Moreover, we have been recently witnessing a new trend that would further contribute to the Israeli policy of altering the status of Jerusalem. In violation of Security Council resolution 478 (1980), adopted in 1980 following the enactment of the Basic Law by Israel, some countries have transferred their embassies from Tel Aviv to Jerusalem. Such action only sanctions Israeli annexation, further entrenches Israeli presence in the occupied territories and seriously damages the universal acceptance of the international community and the commitments made by the United Nations to the special status of Jerusalem.

While recognizing the complexity and emotional implications of the issues pertaining to the status of Jerusalem, we believe that it has to be considered within the general context of the Middle East question, since these acts, perpetrated by Israel with a view to altering the status of Jerusalem constitute a serious impediment to achieving a comprehensive, just and lasting peace in the Middle East. Therefore, in our opinion, a solution to the Arab-Israeli conflict must include reference to the legal status of Jerusalem as a corpus separatum under a special international regime as defined in resolution 181 (II), recognizing the unique pluralistic and religious character of the Holy City, in such a way that its historic character may be restored and that it may again become a stable place of encounter for the adherents of all three religions.

I would like to conclude that, as consistent and active support for Arab causes has become an integral part of Turkish foreign policy, we will continue to do our utmost to join in the efforts designed to dissuade Israel from further attempting to strengthen its presence in Jerusalem and the occupied territories and from changing the internationalized status of the Holy City.

With these considerations in mind, we take this opportunity to call once again upon the world community to impel Israel to withdraw from Al-Quds Al-Sharif and the Arab territories occupied since 1967, in compliance with the pertinent United Nations resolutions.

Notes

1/ A/37/696-S-15510, annex.

2/ A/CONF.114/42.

B. THE STATUS OF THE HOLY CITY OF JERUSALEM

Abdel Waheb Bouhdiba
(Professor, University of Tunis, Tunisia)

I am happy first of all to express my deep thanks and my pride to find myself speaking again from this rostrum, which is unique in its kind, about a thorny problem, a problem which I believe represents a turning point in the history of our age. I mean the problem of the dispersed and uprooted people: the Palestinian people, whose essential rights had been exploited. I would enter this problem through a door which is at the same time narrow and wide - the door of Jerusalem.

I believe that the case for the United Nations and for this blessed Committee is not a matter of conviction. I think that if we have come to this meeting, it is because we are convinced, in one way or another, of the subject. I believe that the problem is absolutely not a problem of analysing the historical basis of the status of Jerusalem. We have spoken about that many times and scrutinized the problem and showed how insidious, unjust and false are Israel's pretensions. I think that the problem is not here. It does not consist in adopting resolutions, reminding people of history or of political or moral legitimacy. But the problem is concentrated, in my view, in a basic action. What are we to do? How can we, after having been convinced and after having analysed, and made a halt to examine, the circumstances of the present situation, what can we, peoples, States and individuals, do to advance one step with this problem? I would like this Committee kindly to examine the results it has achieved during its previous meetings in order to link that past with the present and with what we and the international community are expecting in terms of action. What do we have to do?

First, when we look at the problem, we can see that it rests on various data. On one hand, there are the legal situation, a historical situation and a moral situation of which my colleague from Turkey, who spoke before me, reminded us. Besides this theoretical legal situation, there is the bitter fact which is the exploitation of the situation by Israel, which is absolutely inconsistent with international legitimacy. Nor does it respond to the will of peoples and of humanity. This is so only because it arises from a balance of forces which do not serve, at present, the interests of the Palestinian people and the triumph of right. I feel that we have to ask ourselves about this discrepancy as we were reminded of that by some speakers this morning, this discrepancy between what the situation must be and what it is really about. In my view, consequent to our analysis of this balance or rather this imbalance of forces, some elements may be selected as a basis for action that may transpose the Palestinian issue from the historical deadlock in which it has been stagnating to some preliminaries, let us hope, to attaining some solutions.

The question is therefore how to change the balance of forces; for this balance has to and must change, if not within a year, within two or four or ten. It must change on three levels: first, inside Israel itself; second, at the level of world opinion; and third, within the framework of the thinking and Arab action which have failed to achieve a significant solution in recent years. Our role in this kind of meeting consists therefore, in my view, in awakening the energies and trying to make aware human conscience, so that we may work according to this fact. I say it briefly: our only weapon here is the weapon of information, the weapon of analysis, the weapon of reaching out to public opinion.

All this may be summarized in different aspects of the Palestinian question. But it appears very clearly when we look at the case of Jerusalem. Israel has absolutely no right to Jerusalem, from the geographical point of view as well as from political, moral and cultural stands. It is not me who says that but the founder of Israel itself. For we can read in the autobiography of Chaim Weizmann, which was published in London in 1940, the following, which I textually quote according to the French text which is before me. The founder of the State of Israel, who is, therefore, a historically and politically essentially responsible person for what he wrote and what he thinks, said:

> "There was no holy site in Palestine which is in fact physically claimed by the Jews except perhaps the tomb of Rachel [situated between Jerusalem and Bethlehem] which has never been a subject of controversy. The lamentation was not and had never been our property, since the destruction of the Temple."

The founder of the Zionist entity thus says that there were no rights of the Zionist entity from the material point of view, to any inch of Jerusalem. We know that the Wailing Wall itself was a Moslem "waqf" which the Administrator of that time put at the disposal of those abiding by the Jewish faith, for worshipping, grace-asking and for lamenting, etc. So, if that were the situation, how can world public opinion accept, after this explicit recognition, that it be said that this monument, these villages and this old city, Jerusalem, be identified with the Zionist entity?

The only answer to this question is the weakness of Arab information and the strength of Israeli information which has succeeded in making of a groundless issue a right, and to support this right by force. Our role, therefore, is to reinforce our information system so that we may understand and make others understand what is, in reality, the factual situation concerning Jerusalem.

Without entering into historical details which we have mentioned in previous meetings and which there is no benefit in reiterating and without repeating what our colleagues said, we may say that the difference is the fact that Jerusalem has no law, has no status from the legal point of view.

Yes, the United Nations, in the resolution about the division of Palestine, recommended establishing a separate entity, a corpus separatum. But this has never been implemented and has remained at the level of a theoretical resolution, which was never applied when there was a transition from the status of British protectorate to the factual division in 1948 and thereafter, with the transition to the spoliation of 1967. The case remains therefore in itself standing and we may say that from the legal point of view, the status by which Jerusalem was distinguished under the Ottoman Caliphate was the last legal mandatory thing. But the historical fact, naturally, was transcended by events. Therefore, what we must understand is that we have to link the status of Jerusalem to the whole status of Palestine and the whole situation in the Middle East and realize that the particular status of Jerusalem is not a special status that must be resolved from the legal point of view or from the military point of view or the political point of view. It is part and parcel of the Palestinian issue. But this status is a religious and moral one, that is we must not hide behind it or take the pretext of religious status to retrogress or place it into a special framework. From the political and legal points of view, it is part and parcel of the mother issue, the core issue, the Palestinian issue and the case of the Palestinian people. When we speak of special status at the belief level or at the religious level and that of relations among the revealed religions, Jerusalem is an inspiring city for at least one third of humanity. There is no other city, there is no other inch of land on the earth and in the world which has the importance of Jerusalem for human souls. And it is this perhaps that we must take into consideration in order to place the issue into a new framework, so that we may understand Palestine and make others understand that zionism has nothing to do with Christianity nor Islam nor Judaism itself. Zionism is against the three religions. What we have to exploit in our information action concerning the Palestinian issue, and I believe also in our future action, is to make of the Palestinian issue a goal and to try to change the understanding of world public opinion on the Middle East question. Because we have in Jerusalem the example that expresses in the best way the intentions of zionism and the behaviour of the Israeli State, because of this, I believe that we have to progress another step forward in our work and perhaps change something in our activities so that we may address world public opinion inside Israel, inside the Western countries, inside the United States and inside all countries of the world, even inside the Arab countries themselves. I believe that history and excavations as well as the political and cultural analysis of the status of Jerusalem, allow us to penetrate the minds of those who have a deep influence, in my view, on politicians, especially in the countries which enjoy democracy. If we adopt this means, it may give another image of the Palestinian issue, a new image of the question of Jerusalem and I think, if we succeed, through publications and pamphlets exposing adequately the analysis made at a very high level in these meetings which you have yourself supervised, perhaps we may come out from this narrow framework of the experts and enter the framework of souls and of the international world. I personally believe that the return of the Palestinians to their land and the restoration of their rights is not only the responsibility of the Arab peoples. It is a victory which must be shared by all members of mankind because, whether we are Arabs or non-Arabs, we all believe that right prevails and nothing prevails over it and that supporting this right is supporting rights in general, supporting the principles of the United Nations and justice and freedom.

C. THE STATUS OF THE HOLY CITY OF JERUSALEM

Jerzy Piotrowski
(Member, Polish Institute for International Affairs)

Jerusalem is a unique town. An important centre of spiritual culture, it is a place where three world's great religions - Christianity, Islam and Judaism - either originated or flourished, and its numerous places of religious worship make it a truly holy city.

Jerusalem's status after the adoption by the United Nations of a resolution on the division of Palestine

Jerusalem's Christian, Judaic and Moslem traditions were not forgotten in 1947 when the United Nations General Assembly discussed the future of Palestine; on the contrary, they lay behind its decisions. The majority of the members of the United Nations Special Committee on Palestine (UNSCOP) decided, on 31 August 1947, in a draft project on the division of Palestine, to express its support for granting Jerusalem international status, thereby emphasizing the unique character of the holy city, freely accessible to the faithful of all religions.[1]

General Assembly resolution 181 (II) of 29 November 1947 declared, inter alia, "The City of Jerusalem shall be established as a corpus separatum under a special international regime and shall be administered by the United Nations. The Trusteeship Council shall be designated to discharge the responsibilities of the Administering Authority of the United Nations". The official languages of the city would be Arabic and Hebrew, however, other "working languages" were not excluded in the resolution. It was also stressed that "free access to the Holy Places and religious buildings or sites and the free exercise of worship shall be secured in conformity with existing rights and subject to requirements of public order and decorum.

The 1948 war rendered impossible the implementation of the resolutions on the division of Palestine and prevented the decisions on Jerusalem from being put into effect. Jerusalem's western part (new town) was occupied by Israel, while its eastern part (old town) fell under Jordanian control. Faced with these developments, General Assembly resolution 194 (III) of 11 December 1948 called upon the conflicting parties to turn Jerusalem over to international administration. The call was repeated in resolution 303 (IV) of 9 December 1949.

Despite the United Nations resolutions, the then Israeli Prime Minister declared western Jerusalem the capital of Israel in a statement issued as early as December 1949. Only a few weeks later, on 23 January 1950, the statement adopted by the Knesset said that Jerusalem was, is and shall for ever remain Israel's capital. Soon afterwards, the Israeli Ministry for Foreign Affairs was moved to the city's western part.

The Israeli step was rejected by an overwhelming majority of States including Western capitals and significantly, the United States, for which Israel was at the time the chief outpost for its interests in the Middle East.

The fall-out of the "six-day" war

The Israeli aggression of June 1967 gave new momentum to the Jerusalem problem. The Israelis occupied the whole of the city and soon the Israeli authorities were making energetic moves to alter the status of the city and make it part of the Israeli State. Israel not only refused to endorse the United Nations decisions but went even further by taking unilateral decisions which threatened grave political, demographic, cultural and economic consequences for the Palestinian inhabitants of Jerusalem. An amendment to a bill of 1948 adopted by the Knesset on 28 June 1967 empowered the authorities to extend Israeli administration rule and jurisdiction to the entire city of Jerusalem.[2] On 29 June 1967, the Arab Municipal Council was disbanded and its powers taken over by an Israeli council. At the same time the municipal area of Jerusalem was stretched from 38 square kilometre to 108 square kilometre, which indicated moves to annex areas surrounding Jerusalem along with the city's eastern part.

Moves towards changing the city's legal status were accompanied by measures designed to alter the national composition of its residents, including large-scale demolition of Arab houses under the pretext of protecting Jewish holy places or on an excuse of real estate development. The Arab population was being increasingly removed to give room to Israeli settlers.

These actions meant a de facto incorporation of eastern Jerusalem into Israel and the city as a whole came to be treated as Israel's capital in contravention of the United Nations decision on the international status of Jerusalem.

In an attempt to justify its policy of annexation, the Israeli authorities insisted that prior to 1967, Jerusalem had not been under Israeli or any other State's sovereignty, and argued that, in the event, Israel had not annexed territory of any country.

Such a line of reasoning could not be accepted as correct in the light of the existing norms of international law or the principles of State coexistence. The recognition of Israeli conduct would be tantamount to a reward for an aggressor and would mean an acceptance of the occupation, which generally contradicts the United Nations Charter and Security Council resolution 242 (1967) stating in its Preamble the inadmissibility of the acquisition of territory by war. The Israeli annexation of Jerusalem was denounced by an overwhelming majority of States. The fifth emergency special session of the General Assembly in resolution 2253 (ES-V) of 4 July 1967 voiced its deep concern "at the situation prevailing in Jerusalem as a result of the measures taken by Israel to change the status of the City, rescind all measures already taken and desist forthwith from taking any action which would alter the status of Jerusalem", while another resolution of 14 July 1967 denounced Israel for its failure to submit to that decision.

Evolution of the policy of annexation

For several years Israel held that the decisions taken in the wake of the 1967 war established in principle the legal status of Jerusalem as part of the Israeli State. This assumption propelled the process of judaization of Jerusalem which continued undisrupted and in disregard of international protest.

When the Likud took power in Israel in 1977, a new dimension was added to the Jerusalem issue. While Israel's major political forces spoke in one voice about a "united" Jerusalem remaining the State's capital, Likud took a step further towards reinforcing Jerusalem's status with legislative guarantees.

Likud's position was consolidated already during the Camp David talks in 1978 when the Israeli side decided that the Jerusalem question must remain outside any discussion. It was further reaffirmed in a letter of 18 September 1978 from Prime Minister Menachem Begin to United States President Jimmy Carter.3/ On 20 March 1979, just before the treaty with Egypt was signed, Begin declared in his famous "three times never" that a "united" Jerusalem shall remain for ages the capital of Israel and shall never again be divided.4/

Under the Likud rule Israel drew up various plans providing for a fast expansion of Jewish settlements in Jerusalem and a quick judaization of the city. Today Jerusalem has 400,000 residents, including 290,000 Jews and 110,000 Arabs, but Likud plans for the next quarter century envision a population swell of up to 650,000. In order to increase the number of Jewish residents in Jerusalem (today there are 72 per cent Jews as against 28 per cent Arabs), new housing projects for Jewish settlers were established within the City's administrative limits, and it is only due to financial obstacles that the development plans are behind schedule.

The policy pursued by Likud not only encouraged but openly inspired the extreme right and religious groupings in their efforts to step up the annexation of the occupied territories. Riding on the crest of these moods, a representative of the extreme right, Ms. Geulah Cohen, motioned that Knesset should formally endorse the annexation of eastern Jerusalem in a law. The Israeli right, which is politically even more conservative than Likud, sought to win legal guarantees that Jerusalem would forever be Israel's capital as compensation for the return of Sinai. The motion was accepted in the form of a law passed by the Israeli parliament on 30 July 1980. Its article 1 declares a united Jerusalem to be in its entirety the capital of Israel. Article 2 states that the city is the seat of the President's office, the Knesset and the Supreme Court.

A question arises in this context: how much did the new law alter the status quo? As mentioned above, the decisions made by the Israeli authorities after the war of 1967 meant a de facto annexation of eastern Jerusalem. A government decree issued in July 1967, on the basis of the Knesset law of 28 June 1967, declared Jerusalem an indivisible town and the capital of the State of Israel.5/

In answer to this question, it can be said that the new law was incorporated into a body of so-called "basic laws" which play the role of constitutional norms. Therefore, it may have important and far-reaching consequences while the very fact of making it one of the basic laws was intended to give it a character of an irreversible decision. In this way Menachem Begin intended to preserve his achievement and effectively prevent successive Governments from taking a reverse decision or even trying to negotiate the future of the city with Arabs.

International repercussions

The Knesset law on Jerusalem touched off a tide of protests all over the world. Among others the decision was firmly opposed by the Islamic Conference's Commission on Jerusalem meeting in Fez from 16-20 September 1980. The "Jerusalem and Palestine summit" which gathered heads of Islamic States in Taif in January 1981 adopted resolutions which read as follows:

> "The Kings, Emirs and Presidents of Islamic countries agreed to declare jihad to rescue Jerusalem, support the Palestinian people and ensure withdrawal from the occupied Arab territories. The Islamic countries made it clear in their resolutions that the word jihad is used in its Islamic sense, which is not susceptible to interpretation or misunderstanding and that the practical measures for its implementation will be taken in conformity with this and in constant consultation between the Islamic countries."[g]

The Knesset bill was adopted despite Security Council resolution 476 (1980) of 30 June 1980 which denied Israel the right to change the status of Jerusalem. Its resolution 478 (1980) of 20 August condemned the Israeli decision and declared it null and void.

The Israeli policy of annexation of Jerusalem totally contravene numerous international decisions including resolutions of the United Nations, especially General Assembly resolutions 2253 (ES-V), 2254 (ES-V), 31/106, 32/5, 32/91, 34/90, 36/120 and 37/88. They clearly demonstrate that the Israeli schemes are against international law, United Nations decisions and international conventions concerning the conduct in time of war and as such, are unlawful. For example, resolution 36/120 reads:

> "The General Assembly,
>
> "... bearing in mind the specific status of Jerusalem and, in particular, the need for protection and preservation of the unique spiritual and religious dimension of the Holy Places in the city,
>
> "1. Determines once again that all legislative and administrative actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem and, in particular, the so-called "basic law" on Jerusalem and the proclamation of Jerusalem as the capital of Israel, are null and void and must be rescinded forthwith;
>
> "2. Affirms that such actions constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East, and a threat to international peace and security ...".

A similar stance was expressed in the decisions of the Security Council including the most important resolutions - 252 (1968), 267 (1969), 271 (1969), 446 (1979), 452 (1980), 465 (1980), 476 (1980) and 478 (1980). All of them have determined that the Israeli policy aimed at developing settlements on the occupied territories and a change of the status of Jerusalem was invalid in the light of international law and infringes upon the Geneva Convention relative to the Protection of Civilian Persons in Time of War of August 1949.

The question of Jerusalem is an important item on the United Nations agenda. United Nations decisions are still binding and it should be added that the status of Jerusalem elicits more unanimity within the United Nations than other aspects of the Middle East conflict. An unquestionable majority of States believe that the unilateral acts of annexation of the holy city, which infringe upon the rights of Palestinian Arabs, Moslems and Christians alike, are invalid and contravene the principles of international law. Giving the annexation of Jerusalem the status of a basic law marks an important step towards subsequent annexation of the Arab territories occupied by Israel. The fate of the holy city cannot be considered separately from its Middle East and Palestinian context. A unilateral annexation of Jerusalem must be rejected and its future should be made part and parcel of an overall agreement with the Palestinian people whose inalienable rights to self-determination are reaffirmed by the United Nations and the general international provisions of the law of nations and cannot be denied by Tel Aviv. For its part, Israel ought to abide by United Nations decisions all the more so that it had been called into being precisely by that Organization. By doing otherwise Israel questions the legal international foundations of its very existence. The Israeli decision on the status of Jerusalem raises questions which should be the subject of a more searching discussion. They could include, inter alia,

(a) Practical, economic and demographic consequences that the annexation brings to the Palestinian people;

(b) An assessment of the implementation of the Geneva Declaration on Palestine of August 1983;

(c) The annexation of Jerusalem and the preservation of the Moslem places of religious worship;

(d) The damage to the Arab culture;

(e) Attempts at annexation of the occupied territories, including Jerusalem, as a move towards undermining the Palestinian identity.

Notes

1/ Official Records of the General Assembly, Second Session, Supplement No. 11 (A/364), vol. II, maps.

2/ Cf. R. al-Kathib, The Judaization of Jerusalem (Amman, 1979), Suppl.1 and 2.

3/ For the text of the document, see Journal of Palestine Studies, No. 2, 1979.

4/ Le Monde, 22 March 1979.

5/ See Journal of Palestine Studies, No. 2, 1979.

6/ For the text of the document, see Journal of Palestine Studies, No. 3, 1981.

X. TWELFTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE

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THE CENTRAL ROLE OF LAW IN THE INTERNATIONAL PEACE CONFERENCE ON THE MIDDLE EAST

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Introduction

In resolution 38/58 C of 13 December 1983 concerning the question of Palestine,[1/] the General Assembly noted with satisfaction the Report of the International Conference on the Question of Palestine.[2/] The Conference was held at Geneva from 29 August to 7 September 1983 and endorsed the Geneva Declaration on Palestine, which was adopted by that Conference by consensus. In her closing statement to that Conference, its Secretary-General, Mrs. Lucille Mair, stated: "I submit that the presence in the documents just adopted of so many reference to international law is of further inestimable importance in resolving a question in which such law has so long been ignored".

General Assembly resolution 38/58 C continues the emphasis upon law and justice as the solution to the question of Palestine. Consistent with the recommendations of the International Conference on the Question of Palestine, it endorses the call for an International Peace Conference on the Middle East in conformity with, inter alia, the following guidelines:

(a) The attainment by the Palestinian people of its legitimate inalienable rights, including the right of return, the right to self-determination and the right to establish its own independent State in Palestine;

...

(f) The right of all States in the region to existence within secure and internationally recognized boundaries, with justice and security for all the people, the sine qua non of which is the recognition and attainment of the legitimate, inalienable rights of the Palestinian people as stated in subparagraph (a) above.

The guidelines specified by the General Assembly are based on a recognition of the indispensable role of law in achieving the greatest possible measure of justice and security for both Israelis and Palestinians. In view of the tremendous destruction of human and material values that has taken place through the use of military force outside the world legal order, law is not only the basis of a just solution, but it provides the only practical solution.

1. Methods of international law-making

Customs are the more historic methods of international law-making, as compared with treaties.[3/] In 1625, when Grotius wrote his classic treaties, De Jure Belli ac Pacis, custom stood as the almost unique method of prescribing international law. While conventions or treaties are created by the explicit agreement of States, customary law is based upon implicit agreement. Article 38 of the Statute of the International Court of Justice merely purports to specify the sources of law that shall be applied by the Court. It is, nevertheless, widely accepted as prescribing the sources that are available generally in international law. The first paragraph of the article lists treaties, customs and general principles as the main sources. Custom is specified to be "international custom as evidence of a general practice accepted as law". This carefully worded provision does not require evidence of a universal practice. The historical customary law-making process demonstrates that the rules which are regarded as legally established are based upon the assent of a substantial majority of States. It has not been considered necessary that universal assent be obtained. General principles are specified as being "the general principles of law recognized by civilized nations". The requirements here are not a combination of State practice and assent as in customary law, but rather a combination of State articulation or formulation along with assent.

Although much international law is based upon pre-existing State practice, the community of States has the legal capacity and authority to formulate legal rules or principles through a multilateral conference, even in the absence of pre-existing practice. The Charter of the United Nations is a multilateral treaty by which States created the United Nations as a separate factual participant and legal subject of international law.[4/] The principles set forth in the Charter are binding on all those States that have accepted it as a treaty and become Member States. The provisions of the Charter are designed to operate in the context of the contemporary international law decision-making process. Following the ratification and implementation of the Charter, States retain their pre-existing law-making competence. The Security Council (in subject matter restricted to international peace and security) and the General Assembly (concerning a wide range of subjects) are institutions that facilitate the making of law. Authoritative international law writers have found the State practice requirement for customary law-making in the collective acts of States as well as in their individual acts.[5] The General Assembly is a collective meeting of the States of the world community which comprise its membership. Its authority is derived directly from the Member States, which have the same legal authority to develop and make international law in the General Assembly as they do outside of it. The advantageous feature of such activity in the Assembly is that it can be done more rapidly and efficiently than the same activity in a less institutionalized environment. Since the early years of the United Nations the States of the world community have in fact used the General Assembly as an instrument to express consensus on major international legal issues by majorities substantially in excess of the two thirds vote required by the Charter for important questions. It is a matter of legal theory as to the precise allocation of authority between the powers derived from the Charter and those derived directly from the Member States. The crucial point is that drawing on both sources of authority, the great majority of the Member States have adopted the practice of expressing consensus on legal issues through the General Assembly. The widespread use of and reliance upon resolutions of the General Assembly and the Security Council, which, by their terms, have law-making effect, provide convincing indication that the matters relied upon constitute, at the least, important evidence of the existence of particular rules or principles of international law.

It is sometimes erroneously stated, relying upon the word "recommendation" in Article 18 of the Charter, that the General Assembly may only make recommendations. However, it should be recognized that General Assembly resolutions on important matters that are adopted by two-thirds or larger majorities and repeated consistently over a period of time have law-making authority, whether based upon the powers of the General Assembly specified in the Charter, or upon the existing law-making authority of the community of States, or both.

2. Development of the law of self-determination by the community of States

The authority of the community of States to develop and make law is exemplified in the matter of self-determination.

(a) Historical development

The practice of self-determination preceded the development of the legal right. The American Revolution and the subsequent Latin American revolutions against European colonialism provide pre-eminent historic examples. President Woodrow Wilson first articulated self-determination as a norm to be applied in the post-World War I settlement when he included it among his Fourteen Points. Point XII provided that:

> "[T]he other [non-Turkish] nationalities [which included the Palestinian people] which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development ...".

Professor Kissinger has accurately described the situation as it existed at the peace settlement:

> "In 1919, the Austro-Hungarian Empire disintegrated not so much from the impact of the war as from the nature of the peace, because its continued existence was incompatible with national self-determination, the legitimizing principle of the new international order."[6]

The concept of self-determination was reflected in the Mandate provisions of the Covenant of the League of Nations Covenant.[7] All of the peoples who were placed under League mandates have exercised self-determination except the Palestinians and the Namibians (South West Africans).

(b) The provisions of the Charter of the United Nations

(i) Grants of authority for self-determination

The Charter of the United Nations goes beyond the League Covenant in recognizing the right of self-determination. One of the major purposes of the United Nations, specified in the first article of the Charter is the development of friendly relations based upon respect for "the principle of equal rights and self-determination of peoples". It is important to be aware that this specification of equal rights and self-determination is a right "of peoples". This is a major departure from the once widely recognized legal theory that international law accorded rights only to States and Governments and not to peoples.

It is widely and accurately recognized that the Bill of Rights (the first 10 Amendments) of the United States Constitution embodies a basic value judgement of faith in individual human beings and a fundamental distrust of Governments. In the same way, Charter of the United Nations includes basic value judgements. One of the most important, made manifest in both the letter and the spirit, is faith in the capacity and legal right of individuals to determine their political destiny by exercising self-determination. The correlative is a rejection of colonialism, whether manifested through overt or covert coercion.

It is sometimes contended by those who oppose self-determination for others that the Charter only states that self-determination is a principle and not a right. This view is not persuasive because of the Charter's repeated emphasis upon self-determination and the practice of the world community in implementing it. In addition, the carefully drafted and equally authentic French text states, "du principe de l'égalité de droits des peuples et de leur droit a dispose d'eux-mêmes".[8] By using the word droit in connection with self-determination, the French text removes any possible ambiguity. Article 55 of the Charter re-emphasizes the importance of self-determination. Article 73 (b), concerning non self-governing territories, provides that members assuming responsibility for such territories are required to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions".

Chapter XII of the Charter (Articles 75-85) gives the General Assembly comprehensive legal authority over the international trusteeship system. The International Court of Justice addressed this point with particular reference to the South-West Africa Mandated Territory in the 1950 Advisory Opinion on the International Status of South-West Africa:

> "The Court has arrived at the conclusion that the General Assembly of the United Nations is legally qualified to exercise the supervisory functions previously exercised by the League of Nations with regard to the administration of the Territory, and that the Union of South Africa is under an obligation to submit to supervision and control of the General Assembly and to render annual reports to it."[9]

The result is that the General Assembly has comprehensive authority over League of Nations Mandates including the power to grant self-determination and impose limitations on it.

(ii) Limitations on authority for self-determination

The United Nations is also committed to human rights on a non-discriminatory basis, as indicated clearly in Article 55 of the Charter, which provides in the relevant part:

> "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:
>
> "...
>
> "c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

Article 56, in which all Members pledge themselves to implement the purposes set forth in Article 55, is regarded as making the provisions of Article 55 into legal rights. Consistent with these Charter provisions, the General Assembly is required to impose basic human rights standards, which are limitations upon States created under its authority.

These legal requirements are specified in the Palestine partition resolution, General Assembly resolution 181 (II), which was adopted on 29 November 1947 with the full authority of a two thirds vote as required by the Charter for important questions. It provided for an unusual method of self-determination by the establishment of two independent States in Palestine, referred to as "the Jewish State" and "the Arab State". A special international regime was provided for the city of Jerusalem, which was not to be part of either State. Because of the widespread destruction of human and material values taking place as a result of the Zionist institutionalized terror and responding Palestinian violence, there was an urgent need to invoke and apply the human rights standards of the Charter. The partition resolution includes the human rights standards of the Charter and human rights provisions, which limit the authority to establish each of the two States by providing a reciprocal system of rights and obligations in which the exercise of the right to create a State is conditioned upon the obligation to implement human rights. Some of the most important human rights provisions of the partition resolution are contained in paragraph 10 (d) of part I B, which states:

> "The Constituent Assembly of each State shall draft a democratic constitution for its State and choose a provisional government to succeed the Provisional Council of Government appointed by the Commission. The constitutions of the States shall embody chapters 1 and 2 of the Declaration provided for in section C below and include inter alia provisions for:
>
> "...
>
> "(d) Guaranteeing to all persons equal and non-discriminatory rights in civil, political and economic and religious matters and the enjoyment of human rights and fundamental freedoms, including freedom of religion, language, speech and publication, education, assembly and association".

These provisions for human rights are explicit and there cannot be any accurate interpretation of the partition resolution that circumvents them. They are not surprising in view of the human rights provisions of the Charter. In addition to the basic Charter provisions of Articles 55 and 56, Article 1 (3) specifies, as one of the major purposes of the United Nations, "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion".

The State of Israel's lack of a constitution and the existence of its basic Zionist laws are in violation of the human rights provisions of both the Charter and the partition resolution. For example, the Law of Return,[10/] allows anyone identified in Israeli law as a member of "the Jewish people" (defined, inter alia, by tracing ancestry) to immigrate and acquire instant citizenship, but denies return to a Palestinian refugee born in the country.

In addition, the Charter also contains a further limitation upon self-determination in its prohibition upon the threat or use of force against "the territorial integrity" of States.[11/] The negotiating history demonstrates that in the committee considering self-determination, it was regarded as implying "the right of self-government of peoples and not the right of secession".[12/] The right of self-determination cannot be interpreted as including a comprehensive right to secede from a State by any group which regards itself as having national characteristics.[13/] If self-determination were so misconstrued it would not have received the existing support of the community of States along with a prominent place in the Charter.

(c) The development of the law of the Charter

General Assembly resolution 1514 (XV) of 14 December 1950 entitled "Declaration on the Granting of Independence to Colonial Countries and Territories" is a landmark in the development of the right of self-determination. The first two operative paragraphs of this resolution provide:

> "1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.
>
> "2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

The vote on this resolution was 90 votes in favour to none against, with 9 abstentions. Since there were no opposing votes, the resolution must be interpreted as reflecting the stated legal views of the then full membership of the United Nations. In view of the increasing implementation of self-determination since 1960, there can be no doubt but that the present membership provides full support for the views expressed in the 1960 resolution. Subsequent applications of self-determination as reflected in resolution 1514 (XV) to Algeria, Angola and to Zimbabwe (Rhodesia) and others indicate the view of the General Assembly that a right of self-determination is established in law,[14/] and the entire course of action taken by the United Nations since 1960 is consistent with this basic practice.

General Assembly resolution 2625 (XXV) of 24 October 1970 entitled "Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations" provides further development of the right of self-determination. There are four principal bases for the authoritativeness of this resolution.[15/] First, it is based on the Charter, and therefore its principles were already binding on the Member States through their adherence to the Charter. Second, it was developed and adopted by consensus and the negotiating history indicates that a number of Governments regard it as binding international law either under Article 38 (1)(c) of the Statute of the International Court of Justice concerning "general principles of law recognized by civilized nations", or as a "subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions" in accordance with article 31 (3)(a) of the Vienna Convention on the Law of Treaties.[16/] The third basis for the authority of resolution 2625 (XXV) is that it was developed to provide a statement of law, not of policy or aspirations. The title itself and the final paragraph which provides that "The principles of the Charter which are embodied in this Declaration constitute basic principles of international law", are further indication of the intent of the Member States that this resolution be a binding statement of international law.

The Declaration considers a number of legal principles. Under the heading "Principle of equal rights and self-determination of peoples" the first paragraph states:

> "By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every state has the duty to respect this right in accordance with the provisions of the Charter."

The conjoining of "equal rights" and "self-determination" both in the Charter and in the Declaration means that the peoples who have not yet achieved self-determination have the same equal right to it as did those who exercised it previously.

There is a fourth significant basis for the high degree of legal authority of both the 1960 Declaration on Decolonization and the 1970 Declaration on International Law and Friendly Relations. It is that their substantive provisions concerning self-determination and independence have been implemented in the practice of States. This practice is manifested by the exercise of self-determination since the establishment of the United Nations, which has resulted in its more than tripling membership. The practice of States is the same requisite element in making customary law which has existed for centuries prior to the establishment of the United Nations.17/ It is probable, therefore, that if the legal formulations of self-determination had not been developed beyond those in the Charter, the practice of States would have made self-determination a doctrine of customary law without either the 1960 or 1970 resolutions. In the present situation, self-determination is law because of the Charter, the development of the Charter in the subsequent resolutions and the assent and practice of States which have made it customary law.

The opponents of self-determination usually contrast the law of the Charter, including the relevant resolutions of the General Assembly, with the traditional law which existed prior to 1945.18/ General Assembly resolutions concerning the right of self-determination which have been adopted by consensus or by large majorities have been subjected to particular criticism as being politically motivated.19/ One of the main weaknesses of their arguments is that the law of self-determination has been developed and implemented by precisely the same methods of assent and practice which characterized law-making in the pre-1945 traditional law. The making of customary international law has always been based upon the political consensus of a substantial majority of the community of States. Professor Rosalyn Higgins has written: "Customary international law is therefore perhaps the most 'political' form of international law, reflecting the consensus of the great majority of states".20/ Such political decision was the basis for the abolition of the slave trade in the nineteenth century.

3. The application of self-determination to the Palestinian people

(a) Specification of self-determination through international legal process

Critics of the right of self-determination as enunciated in the Charter and in the 1960 and 1970 resolutions point out the imprecision in these formulations. In particular, they emphasize that there is no precise definition of the "self" which qualifies as a national group of people entitled to self-determination. One such critic, Professor Julius Stone, has written:

> "If, indeed, the references to self-determination in the Charter and in General Assembly declarations have established some legal (as distinct from political) principle, the legal criteria for identifying a people having this entitlement--the "self" entitled to determine itself--remain at best speculative."21/

It seems probable that Professor Stone's difficulty arises from his confusing the basic legal doctrines of the Charter and the 1960 and 1970 resolutions on decolonization and self-determination with the subsequent legal instruments which specify the identity of the people qualifying for self-determination. It is as much of a mistake to look for specifications in these general constitutional formulations as it is to look for specifics in the constitution of a State. The general principles of the constitutional doctrines are made specific by the subsequent legislative and judicial application of them.

There are at least two major issues which must be resolved in an application of the right of self-determination. In addition to the determination of the "people" which qualifies as a "self", a decision must be made concerning the territory in which self-determination is to be exercised.

(b) The recognition of the Palestinians as a national people

The League of Nations Mandate for Palestine of 24 July 1922[22] treated Palestine as a national unit which was to be brought to independence as an undivided whole. The provision for a "Jewish national home" within Palestine did not change the basic legal character of the Mandate.[23] During the period of the Mandate, the British Government recognized the existence of the Palestinians as a people distinct from the European Zionist immigrants by negotiating with their leadership and by adopting the White Paper of 1939 restricting Zionist immigration in response to Palestinian demands. The United Nations accorded additional de jure recognition of their status as a people with national rights in the provisions of the Palestine partition resolution of 29 November 1947 authorizing them to establish "the Arab State". From the time of that resolution in 1947 until 1969, the United Nations dealt with the Palestinians in their de facto role as individuals who were refugees and war victims. The United Nations actions were designed to implement the right of return of Palestinian individuals and to achieve the elementary human rights of war victims under the humanitarian law of armed conflict. The individual right of return, long established in customary law,[24] was recognized as applicable to Palestinians by General Assembly resolution 194 (III) of 11 December 1948 and is repeated in the many subsequent resolutions on the subject. Nevertheless, very few Palestinians have been permitted to exercise the right.

In 1969 the General Assembly again recognized Palestinians as a people having rights as an entity under the Charter of the United Nations. The first preambular paragraph of General Assembly resolution 2535 B (XXIV) of 10 December 1969 recognizes that "the problem of the Palestine Arab refugees has risen from the denial of their inalienable rights under the Charter of the United Nations and the Universal Declaration of Human Rights ...". The first operative paragraph provides further recognition by the United Nations of the Palestinians as a people with a national identity by reaffirming "the inalienable rights of the people of Palestine". This recognition of status as a national entity has been reaffirmed by all subsequent resolutions of the General Assembly that deal with the subject.

(c) General Assembly resolutions applying the right of self-determination to the Palestinian people

The first direct recognition by the General Assembly of the national right of the Palestinian people to self-determination and independence was in the Palestine partition provision of authority to establish "the Arab State". The second such recognition was General Assembly resolution 2649 (XXV) of 30 November 1970, which expresses concern that, because of alien domination many peoples were being denied the right to self-determination. It then condemns those Governments which deny the right to peoples "recognized as being entitled to it, especially the peoples of southern Africa and Palestine". The legal effect of this significant resolution is that the prior resolutions setting forth the basic right of self-determination, resolutions 1514 (XV) and 2625 (XXV) considered above, are now specifically applicable to the Palestinian people.

The many subsequent General Assembly resolutions on the subject, adopted by overwhelming majorities, reiterate the Palestinian national right to self-determination and thereby strengthen the authority for the right which is provided by the League of Nations Mandate for Palestine and the Palestine partition resolution.

General Assembly resolution 3236 (XXIX) of 22 November 1974 reiterates the customary law of the right of return. It also has pre-eminent importance in reaffirming the right of Palestinian self-determination enunciated earlier and consistently maintained subsequently. Its fifth preambular paragraph recognizes that "the Palestinian people is entitled to self-determination in accordance with the Charter of the United Nations". In the first operative paragraph, the General Assembly:

> "Reaffirms the inalienable rights of the Palestinian people in Palestine, including:
>
> "(a) The right to self-determination without external interference;
>
> "(b) The right to national independence and sovereignty."

In operative paragraph 5, resolution 3236 (XXIX) refers to methods by which rights may be regained. It states that the General Assembly:

> "Further recognizes the right of the Palestinian people to regain its rights by all means in accordance with the purposes and principles of the Charter of the United Nations."

(d) The geographical area to which Palestinian self-determination applies

The only de jure boundaries which the State of Israel has ever had are those which were specified for the "Jewish State" in the Palestine partition resolution. Following the Armistice Agreements of 1949, which did not fix de jure boundaries, the State of Israel existed within de facto boundaries until June 1967. Security Council resolution 242 (1967) of 22 November 1967 refers in the first operative paragraph to the principle of "withdrawal of Israel forces from territories occupied in the recent conflict". Since there is no statement of withdrawal from territories beyond the partition resolution boundaries of Israel occupied at a time before 1967, this amounts to recognition of the pre-1967 boundaries. Operative paragraph 1 also refers to the principle of the "territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries". As Lord Caradon, the principal author of resolution 242 (1967) has stated, "the overriding principle" of resolution 242 is the "inadmissibility of the acquisition of territory by war" and this means Israeli withdrawal from Palestinian and other Arab lands must take place to the pre-June 1967 borders, subject to minor variations to be determined, preferably, by an impartial boundary commission.[25/]

It is clear that two different national exercises of the right of self-determination cannot take place simultaneously upon precisely the same territory. Since the General Assembly, in its resolution 181 (II), established the principle of two States in the area and subsequent resolutions have not departed from this concept, it is clear that it is not the intent of the General Assembly to authorize Palestinian self-determination within the State of Israel. Resolution 3236 (XXIX) is consistent with this intent and does not impinge upon the lawful boundaries of the State of Israel. The Palestinian national right of self-determination should be exercised "in Palestine" outside of the pre-June 1967 boundaries of the State of Israel.

4. The requirements for International Peace Conference on the Middle East to establish peace with justice

The dual prerequisites for the successful outcome of the Peace Conference are that the sanctioning process be both efficient and international.

The establishment of public order is a basic task of any legal system, whether domestic or international. The responsibility of a domestic order system is to exercise effective community control over private violence. By analogy, the responsibility of the world legal order is to exercise effective community prohibition of violence and coercion attempted by aggressors. The Secretary-General of the United Nations wrote in 1982: "Our most urgent goal is to reconstruct the Charter concept of collective action for peace and security so as to render the United Nations more capable of carrying out its primary function."[26/] The world legal order must, at the very least, protect peoples and States from coercion and aggression. Such an order is prescribed by the Charter requirement of peaceful methods of dispute settlement[27/] combined with its prohibition of "the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations".[28/] The Charter also contains the complementary provision which authorizes the use of force only for defensive purposes.[29/] It is clear that the Palestinians, who have been the victims of organized Zionist terror since the time of the Balfour Declaration and who have been victimized by the Government of Israel's highly institutionalized State terror since 1948 have not received the benefits of the United Nations legal order. In the same way, those Israelis who have been victims of the Palestinian responding violence have not received the benefits of such a system.[30/] The implementation of legal order would immediately raise a new hope within Israel on the part of those patriotic and enlightened Israeli citizens who have been urging their Government to enter into a peaceful settlement based upon law and justice.[31/] The great opportunity that a solution to the Palestine problem presents to the world community acting through the United Nations, is to provide Palestinians and Israelis alike with individual and national security. In this era of weapons of mass destruction, the probable alternatives to the achievement of the legal order include increased State and group terrorism against civilians, further destructive armed conflicts in the Middle East,[32/] and the danger of a world conflagration of mutual mass destruction as well.

The application of sanctions to enforce the world community consensus concerning Palestine manifested through the authorized organs of the United Nations is indispensable. No organized community, domestic or international, can achieve a legal order without the ability and the will to use the necessary force and coercion to obtain it. The essential element is that coercion must be in the responsible hands of the community and not in the hands of a militaristic and expansionist State. The central point was made by J. W. Fulbright when he wrote, "The crucial distinction is not between coercion and voluntarism, but between duly constituted force applied through law ... and the arbitrary coercion of the weak by the strong".[33/]

One of the objections that will be made to this recommendation for the application of adequate sanctions is the often stated position of the United States Government that it opposes an "imposed settlement". This objection should be clearly understood both in its explicit meaning and in its implication. Its explicit meaning is that an imposed settlement by the world community under law is opposed. Its unexpressed but necessary implication is that the existing imposed settlement by the military power of the Government of Israel, armed and supported by the United States, is condoned. In the light of this situation, the repeated calls of the United States Government for "unconditional" and "direct" negotiations must be treated with considerable skepticism. It is remarkable that the position of the United States applies only to the Israeli-Palestinian conflict. It overlooks the highly successful imposition of a settlement on Japan in the years following the end of the Second World War. It also neglects to mention the imposed settlement in Europe at the end of the same war. No mention of historic settlements would be complete without reference to the peace which the Congress of Vienna imposed on France beginning in 1815.[34] The justice involved in that settlement, including the protection of legitimate French national interests, resulted in less coercion being required than would otherwise have been necessary. Both justice and coercion are typically required in peace settlements and where justice is used less, coercion must be mused more. The absence of elementary justice in the military arrangement now imposed upon Palestine leads to the threat and increasing use of coercion.

The Palestinian right of self-determination is firmly established in law. It is significant that the United States Government, in contrast with its present political opposition to the international legal consensus, has twice assented to and recognized the Palestinian right. Although not a member of the League of Nations, the United States agreed to the terms of the Palestine Mandate in the Anglo-American Convention on Palestine of 1924[35] which incorporated the terms of the Mandate. The second such recognition was the adoption of the Palestine partition resolution under the leadership of the United States, in which the Palestinian right of self-determination was recognized. The central task of the International Peace Conference on the Middle East is to implement the existing legal right of Palestinian self-determination.

The International Conference on the Question of Palestine, which met at Geneva in 1983,[36] provided a practical demonstration of the world community consensus under law. In spite of the strenuous efforts in opposition to the Conference made by the State of Israel and the United States, 137 States attended (20 as observers) along with key national liberation movements and non-governmental organizations. When the principles of the Geneva Declaration on Palestine,[37] produced by the Conference, are implemented, the genuine national interests of both Israelis and Palestinians will be promoted.

With the application and enforcement of the law, the Israeli national rights that will remain inviolate include, among others, the rights to self-determination and to national independence and sovereign equality with other States consistent with international law, including the pertinent United Nations resolutions.[38] The Israeli rights do not include, among others, supposed rights to deny self-determination and independence to the Palestinian people and a supposed right to establish Israeli borders on the basis of military conquest and illegal annexations. Analogous rights and limitations will apply to the Palestinian State. A limitation inherent in the authorization of two States is that each may exercise its national rights conditioned on, at the least, non-obstruction of the national right of the other.

There will be no solution of the Palestine problem until effective sanctions are applied. Because of the continuing economic crisis, largely caused by the militarization of its foreign policy and its domestic society, there is every reason to believe that economic sanctions would be successful against Israel. In the unlikely event that they were unsuccessful, military sanctions are available under the Charter of the United Nations. Such sanctions are also available to ensure compliance with the law by the Palestinian State.

It should be emphasized that sanctions must be conceptualized and applied as a comprehensive process, starting with persuasive measures and leading to increasingly coercive ones, rather than as a group of isolated and unrelated episodes.[39] The main authority to apply sanctions is allocated to the Security Council[40] and its action may be blocked by the negative vote of a single permanent member.[41] The General Assembly may not act while the Security Council is exercising its functions under the Charter concerning any dispute or situation, but it may act when the Council is blocked by a great Power negative note on substantive issues.[42]

When the other Member States of the United Nations act without hesitancy to assert leadership on achieving a peaceful settlement under law, it should have a significant impact upon the United States Government in bringing it back, sooner rather than later, to its principles of advocacy and practical support for self-determination for all juridically authorized national groups, including the Palestinian people.[43] With the concurrence of the United States in the enforcement process, as in President Eisenhower's position in 1957, it will be possible to effectuate the Palestinian people's right to its own sovereign State and to bring peace with justice to Palestinians and Israelis alike.

Notes

1/ The recorded vote on this resolution was: 124 in favour, 4 against (Australia, Canada, Israel and United States of America), 15 abstentions.

2/ United Nations publication, Sales No. E.83.I.21.

3/ The present section is based upon W. T. Mallison and S. V. Mallison, The Palestine Problem in International Law and World Order (London, Longman Group, 1985), chap. 3.

4/ Advisory opinion, Reparation for Injuries Suffered in the Service of the United Nations (I.C.J. Reports 1949), p. 174.

5/ R. Higgins, The Development of International Law Through the Political Organs of the United Nations 2 (1963). See also the distinguished dissenting opinion of Judge Tanaka in Ethiopia v. South Africa; Liberia v. South Africa, I.C.J. Reports 1966 248, pp. 291-293.

6/ H. A. Kissinger, A World Restored: Metternich, Castlereagh and the Problems of Peace, 1812-1822, Sentry, ed. (undated), p. 145.

7/ Article 22 (1).

8/ Article 1 (2).

9/ Advisory opinion of 11 July 1950, I.C.J. Reports 1950, at p. 137. See also I.C.J. Reports 1955, at p. 76 and I.C.J. Reports 1971, at p. 43.

10/ 4 Israel Laws (authorized translation) (1950), p. 144, as amended.

11/ Article 2 (4).

12/ 6 United Nations Conference on International Organizations, Summary Report of the Sixth Meeting of Committee I/1, Doc. 343 I/1/16 (15 May 1945), p. 296.

13/ See J. A. Perkins, The Prudent Peace: Law as Foreign Policy (1981), p. 75.

14/ General Assembly resolution 1573 (XV) of 19 December 1960 concerning Algeria, General Assembly resolution 1603 (XV) of 20 April 1961 concerning Angola, and General Assembly resolution 1747 (XVI) concerning Zimbabwe (Rhodesia).

15/ For the first three of these bases, see Perkins, op.cit., p. 66.

16/ A/CONF.39/27, 8 International Legal Matters (1969), p. 679.

17/ In the famous case of The Paquete Habana, 175 U.S. 677 (1900), the United States Supreme Court based its holding concerning the immunity of coastal fishing boats from capture on the consensus of the community of States manifested by practice since the time of Henry IV.

18/ Zionist legal writers oppose self-determination as law. See, for example, Blum, "Reflections on the Changing Concept of Self-Determination", 10 Israel L. Rev. 509 (1975) which states on p. 511:

> "Consequently, any attempt to convert self-determination into a legally recognized right amounts to an attempt to legitimize revolution and to absorb it into the existing legal system."

See also M. Pomerance, Self-determination in Law and Practice: The New Doctrine in the United Nations, (1982), passim.

19/ See, for example, J. Stone, Israel and Palestine: Assault on the Law of Nations, (1981), passim.

20/ Higgins, op.cit., p. 1.

21/ "Hopes and Loopholes in the 1979 definition of aggression', American Journal of International Law (1977), pp. 224 and 235.

22/ For the text of the Mandate of 24 July 1922, see Official Records of the General Assembly, Second Session, Supplement 11 (A/364), vol. II, pp. 18-22.

23/ "The Churchill White Paper", of 1 July 1922, Cmd. 1700, in Jewish Agency for Palestine, *Book of Documents Submitted to the General Assembly of the United Nations Relating to the Establishment of the National Home for the Jewish People*, Tulin, ed. (1947), p. 110.

24/ Mallison and Mallison, *op.cit*., chap. 4.

25/ Lord Caradon, Goldberg, El-Zayyat and Eban, *U.N. Security Council Resolution 242*, (Georgetown University, 1981), p. 1 at 13. Concerning the powers of the Security Council, see J. Crawford, *The Creation of States in International Law* (1979), pp. 328-329.

26/ *Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 1* (A/37/1).

27/ Article 2 (3).

28/ Article 2 (4).

29/ Article 51.

30/ Both the Israeli State terror and the Palestinian response are analyzed in Hirst, *The Gun and the Olive Branch: The Roots of Violence in the Middle East*, (1977), *passim*. Primary authority on State terror is in L. Rokach, *Israel's Sacred Terrorism: A Study Based on Moshe Sharett's Personal Diary and Other Documents* (Association of Arab-American University Graduates, 1980).

31/ See, for example, *The Other Israel* (Newsletter of the Israeli Council for Israeli-Palestinian Peace, Tel Aviv.

32/ A juridical analysis of the 1982 attack-invasion of Lebanon and the role of the United States Government appears in S. V. Mallison and W. T. Mallison, *Armed Conflict in Lebanon, 1982: Humanitarian Law in a Real World Setting*, (2nd ed.), (Washington, D.C., American Educational Trust, 1985).

33/ *The Crippled Giant*, 108 (Vintage Books, 1972).

34/ Kissinger, *op.cit*., *passim*.

35/ 44 U.S. Stat. 2184 (1924).

36/ See note 2 above and accompanying text.

37/ In the appendix to the Report.

38/ M. H. Heller, *A Palestinian State: The Implications for Israel* (Harvard, 1983). The thesis of this book (prepared under the auspices of the Centre for Strategic Studies of Tel Aviv University) is that, assuming Israeli interest in peace and security, the Palestinian State would be more consistent with such interest than any other alternative.

39/ The past performance and the present potential of such sanctions by the world community are analysed in M. S. McDougal and F. P. Feliciano, *Law and Minimum World Public Order*, 1961), chap. 4.

40/ Charter of the United Nations, Articles 39-51.

41/ *Ibid*., Article 27 (3).

42/ *Ibid*., Article 12 (1).

43/ S. P. Tillman, *The United States in the Middle East: Interests and Obstacles* (1982) demonstrates the United States national interests in a peaceful settlement under law.

XI. THIRTEENTH UNITED NATIONS SEMINAR ON THE QUESTION OF PALESTINE

(7-11 April 1986,
Istanbul, Turkey)

THE INTERNATIONAL PEACE CONFERENCE ON THE MIDDLE EAST IS A LEGAL OBLIGATION AND A POLITICAL NECESSITY

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After having attended, during the last two decades, several international conferences on the question of Palestine, held in different corners of the world, it gives me great pleasure, as a Turk, to welcome you all to another one with a noble and practical purpose, now taking place in my own country. The occasion is all the more meaningful when one remembers that Turkey is not only a Middle Eastern State with deep interest in regional peace, but also has memories of Palestine, where the former Ottoman citizens, as Jews and Arabs, Moslem or Christian, enjoyed a remarkable degree of equality, freedom and justice.

Since then, Palestine witnessed a period of Mandate under the League of Nations, the Partition Resolution recommended by the United Nations, acts of aggression or breaches of peace. Wars are already being fought in the region, and among the discords all over the world or the ones in the Middle East, the Arab-Israeli conflict perhaps poses the greatest threat of global baptism of fire. All of the peoples who were placed under the League Mandates have exercised self-determination except the Palestinians and the Namibians.

The world has come to believe, in the process, that the idea of an International Peace Conference on the Middle East reflects the democratic will of the international community. The choice for such a formula is the result of a conviction based on objective facts and not of a mechanical majority in the United Nations. First, the initial image of Israel, as an undersized country bent only to survive, has been replaced by another prone to expansion, with a plan to annex neighbouring lands. Secondly, the international community now believes that peace cannot be achieved without going to the core of the problem. Thirdly, the Palestine question is different from some other questions (such as the Cyprus dispute) which may be a bilateral issue between the local actors. The one concerning Palestine is an international problem. The United Nations has inherited it since its establishment; it is seized with it; it cannot discard its responsibility. Only a comprehensive solution involving, on an equal footing and with equal rights, all concerned parties including the five permanent members of the Security Council and the Palestine Liberation Organization (PLO), can create the basis for a just and lasting peace. The International Peace Conference on the Middle East, under United Nations auspices, is the means for such a solution. It is a legal obligation and a political necessity.

The post-First World War history of Palestine is one of avoidance of justice. The amount of arbitrariness, outlawry and violence is appalling. This series of misdeeds and injury must be redressed. How can right be restored by means other than war?

One may assume that the following assertions conform to facts. Israel wants Arab recognition of the "legitimacy" of its conquests. It has no intention of negotiating a just and durable settlement; it wishes to impose one. It does not accept the United Nations resolutions on Palestine. It wants to consolidate its gains. It does not recognize the elementary rights of the Palestinians. It wants to make the ousting of the Palestinians from their own land an irreversible fact. It wants to keep Palestine without the Palestinians. It receives political, financial and military support from one of the great Powers and exerts pressure on the Arab States by virtue of its military occupation of some of their territories. Therefore, it is very doubtful that a solution may be reached through direct and bilateral negotiations with Israel, aided by one of the great Powers. As to the usefulness of conciliation as a means for settling the issue, what befell Count Bernadotte explains the futility in general of such procedure.

It seems that the only way to restore justice by means other than war is to lay down a formula for a lasting peace to be achieved within the framework of an international conference and with the guarantee of all the interested parties.

The principal obstacle to an international peace conference lies in the present tension between two currents. The first one, supported by the United States and Israel, envisions a settlement through State-to-State negotiations to the exclusion of the PLO. The second assumes the centrality of the Palestine question, an approach more compatible with global consensus.

A reading of the record leaves the impression that two United Nations Members, the United States and Israel, acting in concert, have been mainly responsible for frustrating an overall peace. These two States have repeatedly argued that Security Council resolutions 242 (1967) and 338 (1973) or the Camp David framework, or both, were the only practical bases for a settlement. The assertion that the PLO does not recognize these two United Nations resolutions does not rest on logical foundations. As expressed on several occasions, the PLO recognizes all United Nations resolutions concerning the Palestine question. No Palestinian leadership can accept resolutions 242 (1967) and 338 (1973) separately since they fail to acknowledge the PLO or the rights of the Palestinian people.

Israel has a "peace" concept, divorced from the reality of what peace in the region means. It has neither defined its borders, nor proposed a full peace plan. The only de jure boundaries which Israel has ever had are those specified for the "Jewish State" in the Partition Resolution. In the past, it opposed several initiatives coming from the United Nations (1983 Geneva Conference), regional groupings (1982 Fez meeting), bilateral (Palestinian-Jordanian) and unilateral (Soviet) peace plans as well as actions of individuals (Jarring and Rogers). Israel has constantly violated international law, not abiding by the United Nations Charter, rejecting various United Nations resolutions and annexing land by force. It has carried its defiance of international norms to the hills of Lebanon, the atomic reactor of Baghdad and to Tunisia, which is neither a confrontation state, nor at war with Israel. Its policies of collective punishments, mass arrest, killing of civilians, tortures of detainees and deportations have become matters of daily life in the occupied territories. The colonization of occupied land, in defiance of the Fourth Geneva Convention, is gaining new momentum. As this international meeting is in progress, Israeli bulldozers are probably at work in the West Bank. Israel has taken over the control of water resources of the occupied lands. The Arab municipalities are dissolved, the mayors fired and some physically attacked and injured. A law was proposed by the Knesset in late 1985 prohibiting contacts between the Israelis and the PLO members. Not only the Africans, but the world public in general is very critical of the nuclear collaboration between Israel and the racist State of South Africa.

On the other hand, even the membership of Israel in the United Nations is conditional on the implementation of General Assembly resolutions 181 (II) of 29 November 1947 and 194 (III) of 11 December 1948. They relate to Israel's obligations concerning boundaries, respect for the rights of the Palestinians, the return of the refugees and the status of Jerusalem. Israel's application for United Nations membership was declined by the Security Council on 17 December 1948. Its second application on 24 February 1949 led to an Ad Hoc Political Committee inquiry as to whether Israel would accept the appropriate General Assembly resolutions. Israel's representative (Abba Eban) was specifically asked the question whether Israel, if admitted to United Nations membership, would invoke Article 2, paragraph 7, of the Charter, which deals with the domestic jurisdictions of States, in settling the question of Jerusalem and the refugee problem. The Israeli representative promised to co-operate with the General Assembly, and the Cuban representative, who summed up the statements on this inquiry, stated that Israel had given assurance that it would not regard such matters to be within its domestic jurisdiction. When Israel was admitted to membership on 11 May 1949, the resolution recalled the explanations made before this Ad Hoc Political Committee.

Israel violated resolutions 181 (II) and 194 (III) and failed to abide by its promises made prior to admission to the United Nations. Israel's membership in that international organization is different from that of any other State. Israel was created by the General Assembly. The same resolution established its borders and set certain obligations. Israel does not have unrestricted sovereignty. The United Nations, as the creator of Israel, has the right and the obligation to compel that State to abide by so many of the resolutions that go to the root of the problem as well as its formal explanations, which should be taken as a condition of Israel's membership in that international body.

However, there is a minority in Israel which believes in peace. The 400,000 people who demonstrated after the Sabra and Shatila massacre would be equivalent to 25 million Americans demonstrating in Washington, D.C. There is also a minority which believes that the West Bank and Gaza should remain forever in Israeli hands. There is a wavering majority between these two minorities. That majority should be convinced that the creation of a Palestinian national State is an integral part of the final settlement.

The United States has so far not allowed the international community to act in accordance with the well-established global consensus. It is unfortunate that the assumption considering Israel a strategic asset for the United States has rendered that great Power a partisan in this issue. The United States shoulders responsibility for its support of Israel especially when the use of American arms violates the laws of the United States and Israeli commitments, let alone international law.

Succeeding United States Administrations have thwarted a comprehensive settlement. Talks between the four great Powers, proposed by France in early 1969, were conceived as the initial step of attempts to strengthen the United Nations. They were frustrated by the Nixon Administration. On 29 September 1977, President Carter declared that if the PLO accepted resolution 242 (1967), the United States would begin to meet and work with it. A joint United States-USSR statement, dated 1 October 1977, referred to the "legitimate rights of the Palestinian people". Although "legitimate rights" were not defined and self-determination not mentioned, the simple recognition of "rights" and designation of the Palestinians as a "people" and not as "refugees" were a significant step for the United States. The Soviet recognition of the Palestinians and their rights was never doubted. This new Carter position lasted, however, only a few days. Moshe Dayan's instant visit to the United States led to a "working paper" in which there was again no reference to the "legitimate rights" of the Palestinians, who were once more divided into "Arabs" and "refugees". The period which extends from Camp David in 1978 to the present witnessed the abandoning of the idea of an international peace conference. The deceased Dr. Fayez A. Sayegh had described the Camp David framework in the following striking manner: "A fraction of the Palestinian people was promised a fraction of its rights in a fraction of its homeland, and this promise was to be fulfilled several years from now, through a step-by-step process in which Israel would be able at every point to exercise a decisive veto power over any agreement ...". The Arab Fahd (1981) and Fez (1982) plans as well as the Brezhnev plans (1981, 1982) tried to sway the United States towards an international approach. As evident in the Reagan Plan (1 September 1982), the United States chose to bypass the United Nations. The United States Administrations must bear the responsibility for this depressing record.

They must also bear responsibility for complicity in Israeli violations of Palestinian rights. Israel could not carry out its violations without the funding it receives from the United States. Moreover, the United States was aware, at least in some cases, that financial or military support would be used for such a purpose. Not only the participation of American planes in Israel's aggressions constituted complicity on the part of the United States, but also that Government did not encourage Israel to withdraw from the West Bank and Gaza. It has acquiesced in numerous violations of the rights of the Palestinians in the occupied territories.

On the other hand, as it is true with all the peoples of the world, there is a basic sense of fairness in the American people as well. It may be established in the minds of the American people that the Palestinian cause is just. One may add at this point that the United States Government recognized Palestinian rights when it agreed to the term of the Palestine Mandate in the Anglo-American Convention on Palestine in 1924 and also with the adoption of the Partition Resolution. A 1982 Gallup survey, commissioned by the Chicago Council on Foreign Relations, shows that the American public supports, by a two-to-one margin, the formation of a separate Palestinian State. If the Gallup tabulation reflects the tendency of the public realistically, the succeeding United States Governments' hostility to a Palestinian State then echoes the inclination of a minority of the United States public.

The United Nations has a clear responsibility to deal with this question. Being a Mandate of the League of Nations, Palestine was referred to its successor organization on the very same day the United Nations was established. After an agonizing debate, the General Assembly recommended the creation of a Jewish State, but has been unable so far to secure the establishment of a Palestinian State, as provided by the same resolution. The solution of problems connected with the creation of a State based on a primarily settler community on land whose indigenous people are still denied the same right deserves to continue to be an international responsibility.

Up to the 1967 aggression, the United Nations did not go beyond condemning some of Israel's violations of United Nations resolutions and of international law. The fact that this international body deplored some of the injustices but remained silent over some other had then encouraged Israel to continue to defy United Nations resolutions. It was only after the 1967 war that the United Nations began to feel the need for a lasting peace. The United States and the USSR differed in their approach in the emergency special session of the General Assembly and consequently their respective draft resolutions failed to gain the required majority for adoption.

The compromise resolution 242 (1967) of 22 November 1967 called, inter alia, for the withdrawal of Israeli armed forces from the occupied territories. Resolution 338 (1973) of 22 October 1973, following the 1973 war, requested a cease-fire and the implementation of resolution 242 (1967) in all of its parts. But neither of the two resolutions included a solution of the Palestine question. The former reflected the balance of forces amongst the belligerents of the 1967 war, Israel as victor and Syria, Egypt and Jordan as vanquished. The resolution did not redress the wrongs done to the Palestinians. There was not even a reference to the mass Jewish immigration forced upon the original inhabitants, the usurpation of the territory of Palestine by an alien minority, the uprooting of its indigenous population and the plunder of their possessions. All that it offered was a mention of the "refugee problem", as if this constituted the whole of the Palestine question.

Resolution 242 (1967) even rewarded the guilty party. It required Israel to withdraw only from territory occupied in 1967. Prescribing respect for the "sovereignty, territorial integrity and political independence of every State in the area", it aimed to secure Arab recognition of Israel, including its sovereignty and conquests prior to 1967. Calling for the withdrawal of Israeli armed forces from territories occupied "in the recent conflict", it implied ratification of the Israeli conquest in excess of the Partition Resolution. The sovereignty, territorial integrity and political independence of the Arab States in the area were never in doubt. This was an attempt to "settle" the Arab-Israeli conflict, bypassing the Palestinians.

In recent years, the General Assembly adopted resolutions which lay stress on the inalienable rights of the Palestinian people. For instance, resolution 2535 B (XXIV) of 10 December 1969, declared that the "problem of the Palestine refugees has arisen from the denial of their inalienable rights". Resolution 2628 (XXV) of 4 November 1970 states that "respect for the rights of the Palestinians is an indispensable element in the establishment of a just and lasting peace in the Middle East". Resolution 2672 (XXV) of 8 December 1970, declares that "the people of Palestine are entitled to equal rights and self-determination". Resolution 2787 (XXVI) of 6 December 1971 reaffirms the rights of the Palestinians to freedom, equality and self-determination. Resolution 2949 (XXVII) of 8 December 1972 declared that the changes carried out by Israel in the occupied territories were null and void. Resolution 2963 (XXVII) of 13 December 1972 embraced seven resolutions which called on Israel to "desist forthwith from all measures affecting the physical, geographic and demographic structure of the occupied territories" and expressed "grave concern that the people of Palestine have not been permitted to enjoy their inalienable rights and to exercise their right to self-determination".

But since the International Conference on the Question of Palestine, held at Geneva from 29 August to 1 September 1983, the considered judgement of the United Nations is that the path to a comprehensive, just and lasting peace in the Middle East is through the convening of an international peace conference. It was the first time that so broad an international forum had met to consider the Palestine question. At total of 137 States, about 100 non-governmental organizations (NGOs), 9 United Nations specialized agencies, and several personalities especially invited for the occasion participated. A significant number of NGOs were from Israel, demonstrating that there exist in Israel fair-minded groups striving for a lasting peace in the area. A plan to deal with all aspects of the question was adopted at Geneva and embodied in two historical documents, namely the Geneva Declaration and a Programme of Action. The settlement emerging from these two documents is based on the following principles: (a) the settlement should be comprehensive, just and lasting; (b) the United Nations is the right place for such a settlement; and (c) the convening of an International Peace Conference on the Middle East is the most appropriate procedure to put such a settlement into effect. General Assembly resolution 38/58 C of 13 December 1983 welcomed the call for convening such a Conference.

The recognition of the rights of the Palestinians was a part of the Programme of Action of the Geneva Conference. The Palestinians were certainly no "rebels without a cause", no "nihilists", no "violent people" closing all doors for peaceful solutions. They are neither a non-existent fiction nor only "refugees". They are a people constituting a nation comprising no less than three groups: (a) 650,000 who are Israeli citizens; (b) 1.3 million more in the West Bank and Gaza, who since 1967 live under Israeli military occupation; and (c) the Palestinians in exile, originally 800,000 driven out in 1948.

During the Mandate, the British Government recognized the existence of the Palestinians as a people distinct from the European Jewish immigrants by negotiating with their leadership and by adopting the White Paper (1939) in response to Arab criticism of foreign colonization. The first direct recognition by the General Assembly of the national right of the Palestinian people to self-determination was in the Partition Resolution. The second such recognition was General Assembly resolution 2649 (XXV) of 30 November 1970. Many subsequent resolutions reiterate the Palestinian national right of self-determination.

The PLO is the sole legitimate representative of the Palestinian people. This was highlighted by a resolution passed by the General Assembly in 1974, inviting the PLO to participate in the debate relative to the Palestine question and conferring upon it the same rights of participation as that of a Member State. It was the first time that a non-State entity was accorded such status.

What juridical status does the PLO have? Traditionally, nation-States are the sole subjects of international law. However, non-territorial public bodies are also brought into existence through agreements. One of the most important non-territorial public bodies is the United Nations. Anti-colonial liberation movements, in addition to resistance groups against occupation forces, have come to be subjects of international law. The Geneva Protocol of 1977 extends its protective cover to include the armed forces, groups and units which are under a command responsibility to a "party", whether the party is represented by a Government or an authority.

There are two historical entities which may be taken as precedents developed in Palestine, namely the World Zionist Organization (Jewish Agency) and the Arab Executive Committee (Arab Higher Committee), recognized as public bodies. The former was originally a group of individuals with no territorial base. The Arab High Authority, which included all the political parties, represented the Palestinian Arabs. It entertained the same status until it was succeeded in 1964 by the PLO.

The PLO represents the embryonic Palestinian State and Government. It has been recognized by over 100 nation-States. It has opened offices equivalent to governmental diplomatic missions in 85 States. The PLO is also exercising certain governmental powers. It has typical sovereign Powers, including taxation, extradition, obtaining loans, granting governmental guarantees, signing treaties and cease-fire agreements. The Palestine National Council serves as a parliament with legislative authority. Its composition reflects Palestinian pluralism. The Executive Committee functions like a Cabinet with various departments and agencies. The PLO also has a judiciary.

Although arguments have been furthered that the PLO does not control a defined territory, the French Government-in-exile during the Nazi occupation of France, the Algerian Liberation Front or the Viet-Cong had command over their populations while their adversaries governed the territories.

It is counterproductive to the cause of peace to ignore the Palestinian contribution to the search for a settlement of the Arab-Israeli conflict. The PLO endorses all United Nations resolutions. It is unfair to the Palestinians, the primary victims of the conflict, to misinterpret their motivations.

The international backing for the overdue act of self-determination by the people of Palestine is now almost unanimous. The principle that only the Palestinians can choose their own representatives cannot be negated. The PLO is the only organization which can negotiate, sign and honour an agreement. No signature, even if it belongs to an individual originally from Palestine, can be binding unless it is affixed by properly chosen representatives and satisfies Palestinian aspirations. Attempts have been made in the past to find Arabs who have no PLO support. Their endeavours are bound to be fruitless.

The Israeli preference to negotiate exclusively with its Arab neighbours reveals an intention to bypass the representatives of the Palestinian people. The United Nations cannot allow an aggressor to reap the fruits of its policy. It should instead act as a peacemaker and also guarantee the results of the conference. Any comprehensive peace initiative needs to be coupled with a guarantee of its implementation. The United Nations has so far adopted about 200 resolutions none of which have been observed. The fact that these resolutions were often taken by overwhelming majorities certainly carries a moral weight with them. But it is at least equally important to implement them. There will be no compliance without international guarantees and no justice and peace without such compliance. For instance, Philip Habib, the special envoy of the United States President, gave Chairman Arafat a formal pledge to protect the Palestinian camps in West Beirut. This pledge was followed by the Sabra and Shatila massacre.

Let us appeal to the United States to join the overwhelming majority of nations for an international peace conference, the organization of which should be entrusted to the Security Council, where the United States may express its views in every step leading to its realization. In spite of difficulties, we have faith in the prospects of peace. We believe in the ability of the United Nations to achieve it. 1986 is globally designated as the Year of Peace. There will be no peace without peace in the Middle East.

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